Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX
(Vol. II — Page 517 to End)

IN THE

Supreme Court of the United States
OCTOBER TERM, 1974

No. 73-2024

ROBERT WARTH, et al,

Petitioners,

—*v*—

IRA SELDIN, et al,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

---

Petition For Certiorari, Filed July 15, 1974
Certiorari, Granted October 15, 1974

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(S 6937)

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IMPACT ON PENFIELD

This section will review the impact of the recommendations of this Task Force on various public services in the Town. Certain services can be handled with relative ease. For example, in telephone conversations officials at Rochester Gas and Electric Company, Rochester Telephone Company and the Monroe County Water Authority assured the Task Force that the gas, electric, telephone and water services will be readily extended to all housing developments in the Town of Penfield.

Sanitary Sewers

In contrast the sanitary sewer situation is too complicated to be dealt with effectively within the scope of the activities of this Task Force. At present there is insufficient capacity to handle 2000 additional dwelling units in Penfield, regardless of their location or cost. In fact, certain approved developments cannot start construction until portions of the sanitary sewer problem are resolved. The Town Board is aware of these problems and is evaluating solutions. This Task Force assumes that satisfactory solutions will be identified and that the appropriate action will be taken to permit the normal growth of Penfield as well as the construction of the recommended moderate income housing.

Roads, Traffic and Shopping

The Penfield Conservation Board has as one of its responsibilities the evaluation of Penfield's road network and traffic patterns. As specific proposals for moderate income housing are presented to

the Planning Board and Town Board, this Task Force asks that the Conservation Board analyze the anticipated impact of each development on the traffic load and patterns. Properly located housing and properly planned roads will present no major problems.

Our concern regarding shopping is less with quantity than with quality. It is reasonably certain that proposals for shopping centers and commercial services will be forthcoming as housing, either moderate or high income, expands. The Town Board and Planning Board must be careful that only well designed, attractive shopping areas, such as Browncroft Corners, be approved. A repeat of the Panorama Plaza situation must be avoided.

Public Transportation

At the present time a moderate amount of public transportation to and from the town of Penfield exists.

Trailways has approximately 17 buses/day from downtown Rochester to Penfield. They travel along Penfield Road to Fairport/ Webster Road, to Whalen Road, to Five Mile Line Road. The first bus leaves Rochester at 6:40 A.M. and the last at 9:30 P.M. The fare from Rochester to Penfield is $.50. This service has some variation on weekends.

The R.T.S. route to Webster crosses Penfield on Browncroft Blvd. and Creek Street. Also, R.T.S. has a number of

charter buses from Penfield to Kodak.

R.T.S. is looking into "Park and Ride" service from Panorama Plaza to Rochester and from Fairport along State Route 250 to Xerox in Webster. Both Park and Ride projects are in the planning stages and will be put into service if the need exists.

School System - Capacity

In discussions with Penfield School Board members and Administrators it was concluded that public school age children from the moderate income housing developments already proposed could be handled within present facilities. They were aware that the bulk of the increase from present proposals would be in the area now served by Harris Hill School.

They indicated that the increase in school population from moderate income housing would be gradual as not all the homes would be built at one time. This would help assimilation. Also, they indicated the proposed Middle School reorganization plan would provide increased capacity at Harris Hill. Lastly, if in the future the increase could not be handled by Harris Hill, the lines within the School District could be redrawn. This has occurred over the years as the population has grown.

Both board members and administrators asked that they be kept informed of proposed housing developments as early as possible, so that their plans for the

school system can always reflect latest information. The Webster School System must also be advised of proposed developments in the areas of the Town of Penfield which it covers.

School System - Tax Impact

It is possible to measure the impact of a moderate income development on school taxes, and to compare this impact with that of a "normal" development. Since, however, the New York State School State Aid formula is dependent on some factors that are three years old, these impacts can accurately be calculated by assuming the two developments were constructed three years ago. Since we know the actual district assessed valuation and state aid in those years, the changes caused by either a moderate income (high density) development or a high income (low density) development can be calculated.

The data in the following comparison has been compiled and the computations prepared by the Center for Governmental Research Inc. (See Appendix M on page 48 for detailed computations.)

Assumptions	High Density Development	Low Density Development
Area	37 acres	37 acres
Density per acre	9.5	1.75
Number of dwelling units	350	65
Selling Price/Unit	$ 18,400.00	$ 37,500.00
Public school-age children per dwelling unit	.5	1.75
Number of these children	175	115
Net Cost/pupil	$ 1,308.16	$ 1,308.16
Total additional cost	$228,928.00	$ 150,438.40
Average full value tax rate	$ 22.98	$ 22.98
Average assessed value tax rate	62.112	62.112
Assessed Valuation	$2,382,800.00	$ 901,875.00
Property Tax Paid	$147,872.00	$ 55,980.00

Effect on School Property Tax Rate

	High density Development	Low Density Development
Full Value Tax Rate		
1 year old development	+.21	+.43
2 year old development	+.21	+.43
3 year old (& subsequent years)	-.06	+.15
	-.02	-.01
Assessed Value Tax Rate		
1 year old development	+.594	+1.17
2 year old development	-.162	+.405
3 year old (& subsequent years)	-.054	-.0297

The conclusions from the above are:

1. Both developments cause an increase in the school property tax rate in the Penfield School District in the first year.

2. The increase caused by the high income (low density) development is twice as high as the increase caused by the moderate income development in the first year. ($1.17 per/1000 vs. .59 per/1000).

3. The moderate income development (high density) causes a decrease in the school property tax rate in the second and subsequent years.

4. The residents in the moderate income development are paying their "fair share" - in fact, better than the residents in the high income development.

EXHIBIT A

APPENDIX A

PENFIELD HOUSING TASK FORCE "CHARTER"

Preamble

The Penfield Town Board recognizes that a shortage of moderate income housing exists in the County of Monroe, and that the Town of Penfield has a responsibility to help alleviate that shortage. We hereby create the Penfield Housing Task Force and charge it with the following purpose.

Purpose

To analyze the various presently existing methods* by which moderate income housing can be built in Penfield and to recommend the types and quantity that should be built. The recommendations of the Housing Task Force may also include: 1) Identification of general or specific locations for moderate income housing in Penfield, and 2) changes, if any, needed in the Penfield Zoning laws to permit the construction of the recommended moderate income housing.

*The work "method" is intended to include two distinct factors: 1) types of construction (e.g. single family, duplex, multiplex, etc.) and, 2) ways in which moderate income housing can be authorized and financed by private and governmental institutions and organizations.

Scope

In preparing recommendations the Housing Task Force should consider the following subjects:

EXHIBIT A

APPENDIX A (Cont'd)

- The opinions and attitudes of the people of Penfield.
- The probable impact the recommendations of the Task Force will have on the present residents of the Town.
- Penfield's present population, including: age, income, location of employment, mobility.
- Penfield's present housing, including: age of housing, property values, cost of construction, housing mix.
- Penfield's geography, including: important, unique, topographical features, drainage problem areas, etc.
- Penfield's public facilities, including: sewer system (before and after Pure Waters project, roads and highways, school systems (Penfield, Webster, parochial), shopping areas, parks, public transportation, public utilities, water supply.
- The Penfield Master Plan.
- Penfield's Zoning Ordinance, including the P.U.D.Ordinance and the Proposed Revised Zoning Ordinance prepared for the Town by the Monroe County Planning Council in 1966.
- All relevant information and data available from: Penfield Town Board, Penfield Planning Board, Penfield Zoning Board of Appeals, Penfield Conservation Board, various public and private resource centers (e.g.Rochester Center for

EXHIBIT A

APPENDIX A (Cont'd)

Governmental and Community Research, Inc.), the previous Penfield Housing Committee (Heininger Committee), builders and builder's associations.

Composition

The Housing Task Force shall be comprised of residents of the Town of Penfield. The Chairman shall be Pierre Coste, 107 Woodhaven Drive. The Co-Chairman shall be Dr. J.Donald Hare, 52 Farmbrook Drive. Sub-committees of the Housing Task Force may be established as needed.

Funding

The Town of Penfield will provide funding in the amount of $500.00 to the Housing Task Force. Funds will be released only with the approval of the Town Board after review of the specific purpose for which the funds are required. The funding is not intended as remuneration for Task Force members services, but rather to purchase such services as may be needed to carry out the Task Force's objectives.

Completion of Recommendations

The goal of the Housing Task Force will be to present its recommendations to the Penfield Town Board at its June 5, 1972 meeting.

EXHIBIT A

- The Monroe County Planning Council suggests that the Moderate Income range is from $5,500 to $11,000, depending on family size.

As contrasted to Moderate Income, "Low Income" families are generally considered to be families who could qualify for public housing. The Rochester Housing Authority has the following net annual income limits for admission:

		Low Income Limit
One Person	-	$4,200
Two Persons	-	$5,200
Four Persons	-	$5,900
Six Persons	-	$6,800
Eight Persons	-	$7,800

The F.H.A. (H.U.D.) limits, which are often used as moderate income limits, are set at 135% of the Public Housing limits.

EXHIBIT A

APPENDIX C

OPINION SURVEY - TABULATED QUESTIONNAIRE

Dear Penfield Resident,

We invite your participation in an opinion survey which will provide some basic information about the views of town residents on the subject of moderate income housing. Your honest opinions as a Penfield resident would be greatly appreciated.

At the regular meeting of March 6, 1972 the Penfield Town Board created the Penfield Housing Task Force. The task force was given the responsibility "to analyze the various existing methods by which moderate income housing can be built in Penfield and to recommend the types and quantity that should be built." A fundamental requirement was that the Task Force actively involve as many Penfield Residents as possible.

You are one of approximately 2,300 persons randomly selected from the Town's voter registration lists to participate in the survey. Results of the survey will be made public as part of the Housing Task Force's report to be presented at the June 5, 1972 meeting of the Town Board (Penfield Town Hall, 8:00 P.M.).

Please complete the enclosed questionnaire at your earliest convenience and return it to the Town Hall in the envelope provided. Tabulation of replies will begin shortly.

EXHIBIT A

APPENDIX C (Cont'd)

I M P O R T A N T

All replies will remain completely anonymous.
Your participation is very important to the success of the survey.

Thank you for your interest.

Robert A. Peterson
Survey Coordinator
152 Willow Bend Drive
Penfield, New York 14526

Penfield Housing Task Force

Philip Bailey	1912 Salt Road
Wendy Bickmore	1849 Blossom Road
Alan Bernstein	129 Shirewood
Pierre Costs	107 Woodhaven Drive
Roy Everson	2467 Penfield Road
Joseph Prate	38 Hitchcock Lane
Thomas Hammond	108 Henderson Drive
J.Donald Hare	52 Farmbrook
Clarence Heininger	2048 Five Mile Line Road
Max Holtzberg	50 Old Barn Circle
Thomas Johnston	29 Royal View
Evelyn Landon	56 Hilltop Drive
David O'Brien	2 Greenwood Cliff
Cornelia Patten	143 Brentwood Drive
Robert Peterson	152 Willow Bend Drive
Barbara Ruben	140 Holley Brook
George Shaw	1700 Jackson Road
Edith Wilcox	1736 Jackson Road

APPENDIX C (Cont.)

SOME POINTS TO CONSIDER.

The Monroe County Planning Council forecasts a need for 80,000 additional housing units by 1980 in the County. Of these, about 35,000 will be required to house families in the moderate income ranges.

The FHA defines moderate income as yearly income approximately between $5,000 and $10,000 (another definition used $6,000 to $11,000).

Families in this income range can typically afford housing costing:

$10,000 - $25,000 for an owned dwelling
$100/mo. - $200/mo.for a rented dwelling

Senior citizens, industrial and service workers, school teachers, policemen, minority workers, young married couples are the main users of this type of housing.

The 1970 Census shows 1,242 owner occupied housing units below $25,000 and 825 renter occupied units below $200/month and 800 mobil homes out of Penfield's total of 7,033 year-round housing units.

Present AA zoning (density and lot size requirements) and construction costs leave little chance that single family dwellings can be built for the moderate income range in Penfield.

Penfield was one of the first towns in this area to incorporate a Planned Unit Development (PUD) provision into its zoning ordinance. A PUD provides for a mixture

of single and multiple family dwellings and accessory facilities in a setting which attempts to preserve the natural features of the land.

One of the three PUD's under development in Penfield has encountered significant neighborhood resistance.

Urban Development Corporation (a state corporation which is exempt from local zoning ordinances and has the authority to construct subsidized housing with tax abatement in areas it selects) has recently announced plans to construct a 350 unit town house and apartment complex in the vicinity of the intersection of Penfield Road and Nine Mile Point Road.

A law suit has been brought against the Town of Penfield claiming that the present zoning ordinance is discriminatory and unconstitutional.

Although racial bias may be a factor, much of the concern over moderate income housing centers around the economic issues of who pays for schools, sewers, etc. and the impact on property values.

EXHIBIT A

APPENDIX C
(Cont.)
T A B U L A T E D
Q U E S T I O N N A I R E

PLACE A CHECK MARK IN THE BOX INDICATING THE EXTENT TO WHICH YOU AGREE OR DISAGREE WITH THE STATEMENT

Number of replies
Percent of replies

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
1. Decent housing is the right of every citizen.	19	248	366	22	102	54	No.
	2	31	45	3	13	7	%
2. All families should have a choice of housing regardless of their income level.	24	107	263	25	247	145	No
	3	13	32	3	30	18	%
3. A shortage of low and moderate income housing exists in Monroe County.	13	176	350	170	87	15	No
	2	22	43	21	11	12	%
4. Moderate income housing is primarily needed by minority group families.	18	41	235	76	317	64	No
	2	5	29	9	46	8	%

EXHIBIT A

5. Housing is an economic issue-racial discrimination and civil rights are not part of the problem.	13	152	301	37	229	79	No
	2	19	37	5	28	10	%
6. I would be more favorable toward an apartment house or town house project in my neighborhood if I knew the new residents had the same economic educational, and occupational background as my neighborhood now has.	16	91	304	83	217	100	No
	2	11	37	10	27	12	%
7. I would be more favorable toward an apartment house or town house project in my neighborhood if I knew the residents would be contributing their "fair share" to finance such town services as schools, sewers, roads, etc.	16	278	320	23	20	34	No
	2	34	47	3	10	4	%
8. Penfield has the responsibility to help alleviate the shortage of moderate income housing in Monroe County.	17	100	297	71	190	136	No
	2	12	37	9	23	17	%

EXHIBIT A

9. The idea of living in a town house or condominium is appealing to me.

7	33	139	93	367	172	No
1	4	17	11	45	21	%

10. The idea of living in a town house or condominium would appeal to me when my family has grown up.

19	55	251	130	243	112	No
2	7	31	16	30	40	%

11. I approve of the federal government assisting a moderate income family in the purchase of a home by paying part of the interest cost of the mortgage.

15	50	168	43	275	261	No
2	6	21	5	34	32	%

OPINION INDEX	N/A	-110 -90	-85 -65	-60 -40	-35 -15	-10 +10	+15 +35	+40 +60	+65 +85	+90 +110
(NUMBER)	1	40	66	80	103	119	110	205	60	27
(PERCENT)	0	5	8	10	13	15	14	25	7	3

EXHIBIT A

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
12. It is desirable to have communities which are a residential mix containing high, moderate and low income single family dwellings and moderate and low income multiple dwellings.	31	78	270	78	239	115	No
	4	10	33	10	29	14	%
13. I approve of tax abatement of local property taxes to provide moderate income housing in Penfield.	47	26	130	80	259	269	No
	6	3	16	10	32	33	%
14. Most people I know feel that when minority group families move into a neighborhood there follows a downgrading of neighborhood property values.	35	134	371	71	158	42	No
	4	17	46	9	20	5	%

EXHIBIT A

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
15. Most people I know feel that when moderate income groups move into a neighborhood there follows a downgrading of neighborhood appearance and property values.	33	55	200	123	355	45	No.
	4	7	25	15	44	6	%
16. I would not object to the presence of moderate income dwellings withing 1/4 mile from where I now live (visible from present residence)	32	63	277	51	239	149	No.
	4	8	34	6	29	18	%
17. I would not object to the presence of moderate income dwellings withing 1/2 mile from where I now live (would pass by them frequently)	35	67	336	62	191	120	No.
	4	8	41	8	24	15	%

EXHIBIT A

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
18. I would not object to the presence of moderate income dwellings within 1 mile from where I now live (would pass by them occasionally).	33	78	431	61	116	92	No.
	4	10	53	8	14	11	%
19. Private builders can economically build and sell moderate income housing without government subsidy (money).							No.
	NOT TABULATED						%
20. The recently announced UDC plan to build 350 low and moderate income apartments and town houses near Penfield Road and Nine Mile Point Road is a step in the right direction.	36	71	244	128	186	166	No.
	4	9	38	16	20	20	%

EXHIBIT A

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
21. There is no shortage of moderate income housing in Penfield.	37	33	141	169	307	124	No.
	5	4	17	20	38	15	%
22. I approve of tax abatement of local property taxes to provide moderate income housing in Penfield for the elderly.	17	133	386	54	140	81	No.
	2	16	48	7	17	10	%
23. The shortage of moderate income housing for factory workers is one of the reasons some corporations have left the Rochester area.	NOT TABULATED						No. / %
24. The only way moderate income housing could be built in Penfield is to modify the zoning ordinance to permit a greater number of dwelling units per acre.	NOT TABULATED						No. / %

EXHIBIT A

	Not Answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
25. The Planning and Zoning Boards are obliged to enforce strict zoning laws in order to protect the property values of the existing property owners.	12	265	350	53	108	23	No.
	1	33	43	7	13	3	%
26. It would be a good idea for the town to formulate plans and take actions which would provide moderate income housing of the type and in the locations which best serves the progress of the town.	27	147	436	59	85	57	No.
	3	18	54	7	10	7	%

EXHIBIT A

	Not answering	Agree Strongly	Agree	No Opinion	Disagree	Disagree Strongly	
27. Senior citizens and young families are usually found in moderate income brackets.	NOT TABULATED						No.
							%
28. Most Penfield residents I know would oppose any moderate income housing projects.	28	74	212	207	267	23	No.
	3	9	26	26	33	3	%
29. Property taxes are the best way to finance schools, roads, etc.	26	29	189	112	244	210	No.
	3	4	23	14	30	26	%
30. What alternative to the property tax would you suggest?	NOT TABULATED						No.
							%

EXHIBIT A

Not Answering

CIRCLE THE SELECTED ANSWER

31. How long have you lived in Penfield?
26/3 a) Less than 1 year 20/3 b) 1-5 years 205/25 c) more than 5 years 557/69

32. How long do you expect to live in Penfield?
59/7 a) Less than 1 year 28/3 b)1-5 years 109/13 c) More than 5 years 615/76

33. What is your sex?
54/7 a) Male 390/49 b)Female 360/45

34. How old are you?
34/4 a) 18-25 62/8 b) 26-35 148/18 c) 36-45 218/27 d) 46-55 205/25 e) 56-65 93/11 f) 66 or older 50/6

35. The moderate income range lies between ($/yr.):
81/10 a) $ 2,000-$7,000 25/3 b) $3,000-$ 8,000 63/8 c) $5,000-$10,000 226/28 d) $7,000-$12,000 234/29 e) $3,000-$13,000 27/3 f) $7,000-$10,000 156/19

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36. What type of dwelling to you and your family reside in ?

28/3 a) Apartment 30/4 b) Town House 7/1 c)Private Home 709/88 d) Mobile Home 34/4 e) Other 2/0

37. Does your family own or rent present dwelling?

30/4 a) Own (includes mortgaged homes) 731/90 b) Rent or Lease 47/6

38. How many members of your immediate family are under age 18?

32/4 a) 0 279/34 b) 1-2 293/36 c) 3-4 167/21 d) 5 or more 40/5

39. Where does the principle wage earner in your family work?

111/14 a) Penfield 63/8 b) Webster 104/13 c) Other town in Monroe County 95/12 d) City of Rochester 422/52 e) Outside Monroe County 16/2

40. Do you feel that more housing should be available in the Town of Penfield for:

107/13 Senior Citizens? a) yes 607/75 b) no 95/12

148/18 Young Families? a) yes 523/64 b) no 140/17

177/22 Minority Groups? a) yes 345/43 b) no 289/37

142/18 Moderate income industrial and public service workers a) yes 513/63 b) no 156/19

EXHIBIT A

41. Do you feel that you understand the main issues related to housing in the Town of Penfield?

57/7 a) yes 556/69 b) no 197/24

42. Would you attend a public meeting to obtain more information and express your views?

a) Yes b) No

NOT TABULATED

EXHIBIT A

MONROE COUNTY PLANNING COUNCIL

TEN YEAR HOUSING TARGETS FOR MONROE COUNTY

Monroe County should construct 80,000 new housing units between now and 1980. Some 55,000 of these are necessary to accommodate our growing population while the additional 25,000 are needed to replace existing housing which is either substandard already or bound to become so over the next 10 years. Of these 80,000 units, about 52,000 - 60,000 need to be for low and moderate income households, those earning $11,000 per year or less for a family of four.

Housing Needed for Growth

There are currently 228,554 housing units in Monroe County serving a population of 711,917. The calculation for growth is based upon finding the number of housing units necessary for a 1980 projected population of 817,500 after accounting for persons living in group quarters and institutions and changing household sizes. The 1980 population estimate is that derived for Monroe County by the State Office of Planning Coordination in 1966 as part of a statewide effort. These estimates were revised in 1969; but in the opinion of the staff, the earlier work was better. The 1969 estimate by this state office was 807,300 so the higher estimate at least ensures meeting the lower as well. Both projections are well

EXHIBIT A

under our own figures developed in 1962 which projected a 1980 population of 867,800. For the past five years we have been using instead the low estimates which range between 810,000 and 820,000..Thus, the 817,500 used in this exercise is quite reasonable.

Take 1970 population	711,917
Subtract inmates in institutions	7,345
Subtract persons in group quarters	12,231
Remainder is persons in housing units	692,341
Divide by 1970 occupied housing units	220,554
Result is persons per occupied housing unit - 1970	3.14

Since average household size is expected to decline from 2.7 to 2.5 in the next ten years, adjust the persons per occupied housing unit figure accordingly. Thus, in 1980, the population per occupied housing unit is estimated at 2.91.

Take projected 1980 population	817,500
Assume 1.03% are inmates	8,420
Assume 1.71% live in group quarters	13,979
Remainder is projected persons in housing units	795,101
Divide by 2.91 persons per occupied housing unit	2.91
Result is number of occupied housing units by 1980	273,230

Require a 3.5% vacancy rate for market flexibility	9,560
Total housing units needed in 1980	282,790
Total housing units existing in 1970	228,554
Needed additional housing units for growth	54,236

Housing Needed to Replace Existing Sub-Standard Stock

In addition to building for growth, we must also replace the existing housing stock that is substandard. The report of the Rochester Center for Governmental and Community Research assumed that a reasonable estimate could be made by adding together all the dilapidated housing plus all the deteriorating housing which also lacks some plumbing facilities plus one-third of the deteriorating housing which still has all plumbing facilities. These terms were defined and used by the 1960 census. The 1960 figures for Monroe County were thus:

Dilapidated	3,833
Deteriorating and lacking some plumbing	2,792
1/3 of Deteriorating with all plumbing	4,788
	11,413

Unfortunately, the 1970 census does not use these definitions of housing quality. Instead, it measures various indices of quality, such as presence or

absence of various facilities, and leaves it to the user to define the categories of substandardness. The Research Center simply assumed that the 1960 figure was at least constant and used it as the 1968 estimate. Past history indicates that the rate of deterioration is 0.26% annually. Thus, between 1960 and 1970, 482 units per year became substandard. Since this just about equals the demolition of existing units in the County, housing is becoming substandard at the same rate that sub-standard housing is being demolished. As a result, the assumption by the Research Center seems quite reasonable as an assessment of the amount of existing housing stock which requires replacement.

To these 11,413 units should be added another 1,000 units for the relief of overcrowding. Again, the assumption that overcrowding is as serious in 1970 as it was in 1960 is a reasonable one; the 1970 census states that there are 9,879 housing units in Monroe County with greater than 1.01 persons per room, while the 1960 census showed 9,966 such units.

Housing Needed to Replace Existing Standard Housing Which Will Either Become Substandard or be Demolished over the Next 10 Years

As noted above, housing has been deteriorating at the rate of 0.26% per year. However, accelerated construction of a public nature, urban renewal and highway construction for instance, lead one to believe that this figure should be increased

somewhat. Another reason for doing this would be the observation that the housing stock is comparatively old. Over 50% of the stock is over 40 years old for instance. Thus, an ongoing replacement rate of 0.5% annually would be a decent estimate for this factor. This would call for 12,800 such units over the next 10 years.

Summation

In summary, the components of the 1980 housing targets are:

Units needed for growth	54,236
Units to replace existing substandard units	11,413
Units to relieve over-crowding	1,000
Units to replace existing units becoming sub-standard or being demolished	12,800
Total need between 1970 and 1980	79,449

To round off, say 80,000 units are needed; 55,000 for growth and 25,000 for replacement. If all of the replacement units and between 50-65% of the growth is required for low and moderate income families, then 52,000 to 60,000 of these 80,000 units should be directed at that market.

APPENDIX E

Excerpts From

The 1970 Census of Population and Housing

1. Penfield population: 23,782

2. Housing Units: 7,039

3. Age of population:

Under 5 -	2076
5 - 14 -	5770
15 - 24 -	3113
25 - 34 -	3096
35 - 44 -	3477
45 - 54 -	3038
55 - 64 -	1788
65 + -	1364

4. Population by race:

White -	23625
Negro -	60
Oriental-	71
Indian -	16
Other -	10

5. Housing Units:

Owner occupied:	5681
Renter occupied:	1190
Vacant:	168

6. Housing Units:

One unit structures:	5123
Two + unit structures:	1110
Mobile homes:	800

EXHIBIT A

APPENDIX E (Cont'd)

7. Population Owner-Renter:
   In owner occupied units: 20,653
   In renter occupied units: 3,080

8. Value of owner occupied units:

Less than $5,000	-	8
$5,000-$9,999	-	34
$10,000-$14,999	-	71
$15,000-$19,999	-	272
$20,000-$24,999	-	857
$25,000-$34,999	-	1860
$35,000-$49,999	-	1199
$50,000 Or more	-	261

Note: Total of above is 4562 units. Mobile homes are not included; nor are homes with business or medical offices on the property.

9. Cost of renter occupied units:

Cash Rent		No. Units
$99./mo or less	-	92
$100-$119/mo.	-	65
$120-$149/mo.	-	95
$150-199/mo.	-	567
$200-299/mo.	-	265
$300 & up	-	12
No cash rent - (?)		43

Total: 1139

EXHIBIT A

APPENDIX E

Distribution of housing units in Moore County (Rtn) Source: 1970 census data

	Moore County	Moore County (Excludes City)	Pinehurst	Southern Pines	Aberdeen	Carthage	Cameron	Foxfire	Jackson Springs	Pinebluff	Robbins	Taylortown	Vass	Whispering Pines	Whitehall	Whitehall (City)
LOW (UNITS)	20,676	3,127	92	97	1,241	126	132	115	364	95	96	465	96	99	368	138
MODERATE (UNITS)	25,974	25,625	1,350	1,241	1,364	359	3,032	7,159	455	1,227	1,222	5,057	870	423	1,935	833
HIGH (UNITS)	91,796	80,019	5,819	10,163	3,239	373	5,229	13,190	312	4,491	6,911	15,691	1,724	498	5,825	1,415
PERCENT OF TOTAL UNITS INCLUDED	98	92	91	93	92	78	94	95	70	93	93	96	85	72	90	84
TOTAL NUMBER OF HOUSING UNITS	323,847	122,538	7,033	12,315	5,196	1,940	7,521	22,411	1,227	8,959	8,959	30,007	3,157	1,413	9,057	2,928
LOW (PERCENT)	9	3	1	1	1	11	1	2	8	1	1	2	1	7	4	5
MODERATE (PERCENT)	39	24	19*	10	27	33	26	32	37	15	15	25	27	30	21	28
HIGH (PERCENT)	40	65	71	82	63	34	67	61	25	77	77	69	55	55	65	51

	Ruskin	Sweden	Westsyde	Wheatland	Winchester (City)
LOW (UNITS)	87	17	175	133	17,246
MODERATE (UNITS)	161	930	1,945	454	57,225
HIGH (UNITS)	412	1,293	4,491	433	11,247
PERCENT OF TOTAL UNITS INCLUDED	75	85	90	81	84
TOTAL NUMBER OF HOUSING UNITS	879	2,800	6,913	1,229	115,501
LOW (PERCENT)	10	7	2	10	17
MODERATE (PERCENT)	18	33	21	36	56
HIGH (PERCENT)	47	45	67	35	11

NOTES:
- ALL PERCENT ARE PERCENT OF TOTAL HOUSING UNITS. (PERCENT OF LOW+MOD+HIGH IS NOT EQUAL TO 100%) THIS IS BECAUSE NOT 100% OF TOTAL HOUSING UNITS WERE ENUMERATED EXCLUSIONS INCLUDE CERTAIN NON-RESIDENTIAL-USE BUILDINGS AND SOME FARMS.
- "LOW" INCLUDES OWNER VALUE BELOW $10,000. AND RENTAL BELOW $80. PER MONTH.
- "MODERATE" INCLUDES OWNER VALUE FROM $10,000 TO $20,000. AND RENTAL FROM $80. TO $150. PER MONTH.
- "HIGH" INCLUDES OWNER VALUE ABOVE $30,000. AND RENTAL ABOVE $150. PER MONTH.
- * PINEHURST MODERATE WOULD BE 550 UNITS OR 8 PERCENT IF TRAILERS (MOBILE HOMES) EXCLUDED.
- MOBILE HOMES ARE ASSUMED TO FALL IN MODERATE CATEGORY. THEY WERE NOT ENUMERATED BY VALUE OR RENTAL IN CENSUS DATA.

EXHIBIT A

APPENDIX H

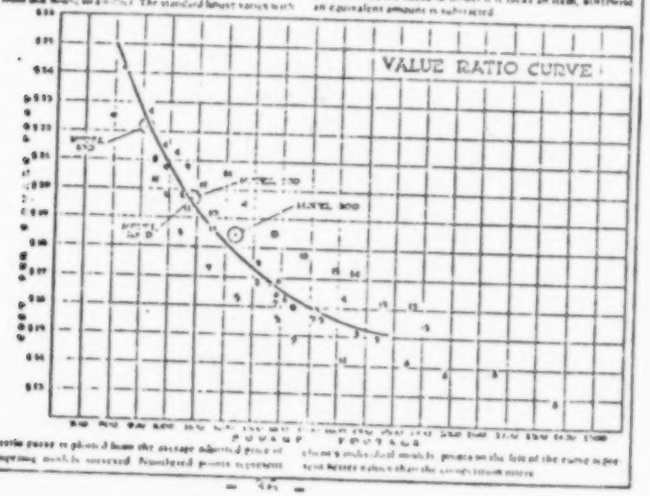
Cost of Extra Features

Value Ratio Curve

Standard Features	Features Below Standard	Dollar Amount Added To Sales Price	Features Above Standard	Dollar Amount Subtracted From Sales Price
Concrete Driveway	Asphalt Driveway	$100	N.A.	N.A.
Front Lawn or Landscaping	No Lawn or Landscaping	$150	Back Lawn or Landscaping	$150
Front Sprinklers	No Sprinklers	$150	Back Sprinklers	$150
Partial Carpeting	No Carpeting	$400	Complete Carpeting	$250
One Fireplace Home	No Fireplace	$650	Two or More Fireplaces	$650 each
Wood Shake or Shingle Roof	Composition Roof	$750	Tile Roof	$500
Dishwasher	No Dishwasher	$200	N.A.	N.A.
Two Car Garage	One Car Garage Two Car Carport One-Car Carport	$800 $400 $1,600	Three or More Car Garage	$800 each
6,000 Square Foot Lot Size	Less than 6,000 Square Foot Lot Size	$0.75/ Square Foot	More than 6,000 Square Foot Lot Size	$0.75/ Square Foot
2 Baths of Home Less Than 2,000 Square Feet	1½ or Fewer Baths	$450/½ Bath $800/Full Bath	2½ or More Baths	$450/½ Bath $800/Full Bath
3 Baths of Home 2,000 or More Square Feet	2½ or Fewer Baths	$450/½ Bath $800/Full Bath	3½ or More Baths	$450/½ Bath $800/Full Bath
No Air Conditioning	N.A.	N.A.	Air Conditioning Evaporative Cooling	$1,300
No Drapes	N.A.	N.A.	Partial Drapes Complete Drapes	$250 $500
Single Oven	N.A.	N.A.	Double Oven	$200
No Self-Cleaning Oven	N.A.	N.A.	Self-Cleaning Oven	$100
No Patio	N.A.	N.A.	Patio	$200
No Wet Bar	N.A.	N.A.	Wet Bar	$400
No Fencing	N.A.	N.A.	Fencing	$450
No Bonus Area	Unfinished Bonus Area Partially Finished Bonus Area	$3,000 $500	N.A.	N.A.

N.A.—Not Applicable. None

Adjusted price analysis sheet lists some common features that vary from one home to another. The standard house varies with [illegible] price dollars are added to or subtracted from the sales price of each item, whichever an equivalent amount is subtracted.



Value ratio curve is plotted from the average adjusted price of all comparable models surveyed. Plotted points represent [illegible] shown a substantial margin on the left of the curve is positive better value than the comparison [illegible]

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EXHIBIT A

APPENDIX H

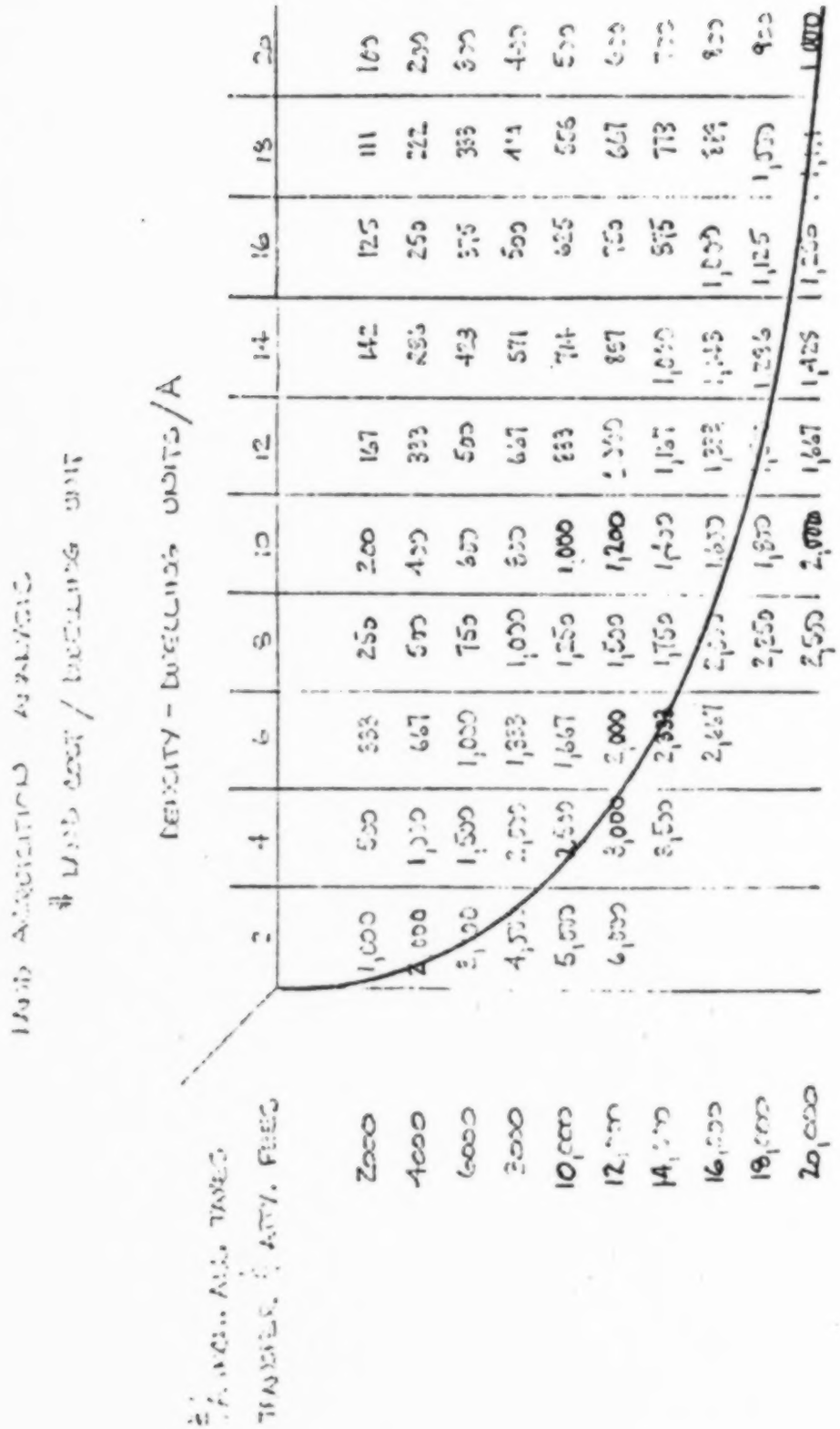

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EXHIBIT A

LAND DEVELOPMENT ANALYSIS

DEVELOPMENT COST / DWELLING UNIT

$/A INCL. ALL FEES & ENGINEERING	DENSITY - DWELLING UNITS/A									
	2	4	6	8	10	12	14	16	18	20
2000	1,000									
4000	2,000	1,000								
6000	3,000	1,500	1,000							
8000	4,000	2,000	1,333	1,000						
10,000	5,000	2,500	1,667	1,250	1,000					
12,000	6,000	3,000	2,000	1,500	1,200	1,000				
14,000	7,000	3,500	2,333	1,750	1,400	1,167	1,000			
16,000	8,000	4,000	2,667	2,000	1,600	1,333	1,143	1,000		
18,000	9,000	4,500	3,000	2,250	1,800	1,500	1,286	1,125	1,000	
20,000	10,000	5,000	3,333	2,500	2,000	1,667	1,429	1,250	1,111	1,000
22,000	11,000	7,000	3,667	2,750	2,200	1,833	1,571	1,375	1,222	1,100
24,000	12,000	8,000	4,000	3,000	2,400	2,000	1,714	1,500	1,333	1,200

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EXHIBIT A

APPENDIX I

Penfield Zoning Ordinance, Housing Section Summary

District	Uses	Accessory Uses	Area of Structure	Minimum Size Lots	Yards	Parking	Height
Residential AA District	1 family dwelling, churches, schools, parks, playgrounds, conservancy & lodges (not to exceed 2), cemetery, agricultural operations, public library, municipal buildings	private garage, professional office, (when part of the personal residence)	not less than: 1500 sq ft (1 story) 1400 sq ft (1½ story) 1500 sq ft (2 story)	at least: 110 ft width 200 ft depth 20,000 sq ft, except corner lots Note (1)	front yards (see Note 2) interior side and rear lot lines no less than 10 ft	-	-
Residential A District	all uses permitted in AA District except boarding & lodging not to exceed 4	same as AA District	not less than: 1000 sq ft (1 story) 1200 sq ft (1½ story) 1300 sq ft (2 story)	at least: 100 ft width 150 ft depth 15,000 sq ft, except corner lots Note (2)	same as AA District	-	-
Apartments or multiple dwellings	apartment houses, multiple dwellings	-	500 sq ft (efficiency) 600 sq ft (1 bedroom) 800 sq ft (2 bedrooms) 950 sq ft (3 bedrooms) Density not to exceed 12.4 living units per acre	3500 sq ft for each apt living unit structure not to exceed 25% of the area of the lot	no nearer to streets than Paths of bldg., no nearer than 80 ft in any case, Note (4)	1½ spaces per living unit, 1 of which must be in an enclosed garage	-
Town Houses	Town Houses	private parage, swimming pool, parks, playgrounds & play areas incl. structural facilities incidental to recreation area, maintenance buildings	Density not to exceed 9 dwelling units per acre. Buildings can occupy no more than 27% of gross acreage. Each unit must contain at least 1200 sq ft of habitable area.	must have at least 20 ft frontage	Front yards no nearer than 50 ft to center line on private streets on which it fronts, no nearer than 60 ft to center line on public road in accordance with Zoning Note (5)	2 spaces per dwelling unit, 1 of which must be enclosed & covered	not to exceed 35 ft
Trailer Parks	All uses permitted as in residential A District, subject to all the conditions and uses permitted in such A District	such commercial uses as may be necessary to the operation of a trailer park, must be approved by the Zoning Board of Appeals	-	No addition to any trailer park shall be constructed within 250 ft of the line of any residential district of which area & 50 ft strip immediately adjoining said residential district shall be maintained as a landscaped buffer area.	-	-	

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EXHIBIT A

APPENDIX I
(contd.)

NOTES

1. Corner lots (AA): Width - 125 ft
Depth - 200 ft
Area - 25,000 sq.ft.

2. No structure nearer than:

108 ft. from center line of highway (certain main streets)
90 ft. - other main streets
83 ft. - all other streets (see section 29-10 - zoning ordinance)

3. Corner lots (A): Width - 125 ft.
Depth - 150 ft.
Area - 18,750 sq.ft.

4. Yards - Apartments or Multiple Dwellings: No structure in excess of 3 stories shall be nearer than 20 ft. to any interior side or rear lot line.

No structure from 4 to 6 stories inclusive shall be nearer than 30 ft. to any interior side or rear lot line.

No structure 7 stories or more in height shall be nearer than 40 ft. to any interior side or rear lot line.

EXHIBIT A

APPENDIX I
(contd.)

5. Town Houses - Side Yards: Setback of 35 ft. required from center line of a private road.

Setback of 60 ft. required from center line of a public road.

Side yard setback of at least the height of highest adjacent building and no less than 20 ft. required between building groups.

Town Houses - Rear Setback: At least 30 ft. setback from any other structure or external boundary line.

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EXHIBIT A

District	Uses
Planned Unit Development	Variety of residential types and non-residential uses. Contains both individual building sites and common property which are planned and developed as a unit. (a planned neighborhood)

APPENDIX I
(cont.)

Area of Structures

Minimum Area: 100 acres of contiguous land

Residential Uses: May be of any type. Must be a variety as follows:

Requirements	Type	Minimum	Square feet
Minimum - 10% by acreage	single family detached	1 story	1100
		1½ story	1400
		2 story	1500
Minimum - 15% by acreage	single family detached	1 story	1000-1100
		1½ story	1200-1300
		2 story	1350-1500
Minimum - 7 ½ by acreage	single family detached or double houses *	1 story	850-900 single fac-ing detached
		1½ story	1000-1150
		2 story double	1150-1250 900
Maximum - 30% by acreage	single family detached **	1 story	850-1000
		1½ story	1050-1200
		2 story	1150-1300
Maximum - 27%	may contain multiple dwelling		
Minimum - 10%	must be set aside for recreational use		
Maximum - 2%	accessory commercial and service usage (see Note f)		

* Average density not to exceed 4 dwelling units per acre.

** Average density not to exceed 3 dwelling units per acre. No structure nearer than 6 ft to interior side or rear lot line.

SEE NOTES FOR ADDITIONAL PUD REQUIREMENTS

EXHIBIT A

APPENDIX I
(contd)

NOTES - PLANNED UNIT DEVELOPMENT (PUD)

a) Horizontal Structures - including garages shall not occupy more than 20% of the land allocated to the multiple dwelling portion of the PUD.

b) Parking - Each dwelling must have (2) adequate parking spaces, (1) of which shall be an enclosed garage.

c) Average Density - 9 dwellings per acre for town houses,
12 dwellings per acre for apartments.

d) Distance between multiple unit buildings - not less than height of tallest building.

e) Front Set Back -

State, county, major town roads - 100 ft. from highway line

Internal subdivision feeder & collector streets - 50 ft. from street line

Totally internal streets - 30 ft. from street line

EXHIBIT A

APPENDIX I
(cont.)

f) Accessory Commercial and Service Uses - For those developments in excess of 100 acres, commercial and service uses of not over 2% of the total acreage are permitted (where such services are scaled primarily to serve the needs of the PUD).

g) Customary Accessory or Associated Uses - such as private garages, storage spaces, recreational and community activities, churches, and schools shall be permitted or required as appropriate to the PUD.

EXHIBIT A

APPENDIX J

ESTIMATE OF HOUSING COSTS IN PENFIELD'S PROPOSED P.U.D.s

All builders interviewed emphasized the point that none of their price quotations were "carved in stone". Every day of delay forces prices higher.

WILLOW POND PUD - Standco

104 acres 5 Units per acre. 518 Units

Low	High	Type	Sale or rent	Cost
80		Elderly	Rent	$43.00 mo. (sub.)
	44	Town houses	Sale	low 20s
	48	Town houses	Rent	??
	12	Garden Apts. (1 B.R.)	Rent	$160-$200 mo.
	121	Garden Apts. (2+B.R.)	Rent	$200-$300 mo.
	134	Duplexes	Sale	mid 20s
	12	O Lot line	Sale	mid 20s
	17	Single-A	Sale	$27,000-$35,000
	50	Single-B-C	Sale	$25,000-$30,000
80	438			

EXHIBIT A

APPENDIX J (cont.)

BEACON HILLS - J.Audino

97 acres 3.13 units per acre 313 units

313 { 161 Singles { 134 above $25,000 { 10% AA / 16% A
313 { 161 Singles { * 27 - $22,130-$24,900 7% (840-1000 sq.ft.- 2-B.R.some expandible)
313 { 152 Quadraplexes - rental only - $200 mo. and up

*7% of 97=6.79 x 4 units per a. = 27 homes. (These homes were originally planned for around $19,800 - $22,000 when 378 units were allowed. $172.90 a month would have carried one of these. The $24,900 home would now cost $189.85 a month (including $50 taxes) with a conventional mortgage.

EXHIBIT A

APPENDIX J (contd)

ROCK LAKE - J. Odenbach

168 acres 4.68 units per acre. 784 units

Open hearing of the Planning Board - March 22, 1971

AA-2 per acre	- 37	
A -3 per acre	- 76	
B -3 per acre	- 106	
C -4 per acre	- 90	
Town houses	- 136	(2-3 B.R.)
Apartments	- 336	(1-2 B.R.)
	781	

No specific costs were mentioned. Homes would range from the low 20s to the high 40s with "an effort to keep the mix toward the lower end".

Mr. Odenbach says that at the present density they cannot build the type of community they had planned, so they are virtually giving up the idea for the moment and are in no position to estimate costs of housing. Also the sewer problems would limit any ground breaking in the area till at least 1974.

EXHIBIT A

APPENDIX K

FHA - Sections 235, 236 Summary

INTEREST SUPPLEMENTS ON HOME MORTGAGES

A program to enable lower-income families to buy a home or a membership in a cooperative housing project

Nature of Program

HUD makes monthly payments to the mortgagee to reduce interest costs to as low as 1 percent on a home mortgage insured by the Federal Housing Administration. The homeowner must pay at least 20 percent of his adjusted monthly income on the mortgage. Amounts of subsidies vary according to the income of the individual homeowner and the total amount of the mortgage payment at the market rate of interest. Family income and mortgage limits are established for eligibility in each locality. Assistance may be provided for new or substantially rehabilitated homes and, in a limited number of cases, for existing homes without rehabilitation.

Applicant Eligibility

The applicant may be anyone whose income qualifies him for the subsidy aid.

Application is made to a lending institution approved by FHA as a mortgagee.

Information Source

HUD area office or HUD-FHA insuring office.

Legal Authority

Section 235, National Housing Act (Public Law 73-479), as added by the Housing and Urban Development Act of 1968 (Public Law 90-448).

Administering Office	Function
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner	Aid development and construction
Assistant Secretary for Housing Management	Management and loan servicing for multifamily projects

EXHIBIT A

INTEREST SUPPLEMENTS ON RENTAL AND COOPERATIVE HOUSING MORTGAGES

A program to reduce costs on certain rental and cooperative housing projects designed for occupancy by low-income families

Nature of Program

HUD makes monthly payments to mortgagees, on behalf of mortgagors, of a part of the interest on market-rate mortgages financing rental or cooperative housing projects for lower-income families. Interest-reduction payments may also be made on rental or cooperative housing projects owned by private nonprofit, limited-dividend, or cooperative entities which are financed under a State or local program providing assistance through loans, loan insurance, or tax abatement.

Interest-reduction payments cannot exceed the difference between the amount required for principal, interest, and mortgage insurance premium on a market-rate mortgage and the amount required for principal and interest on a mortgage at 1 percent interest. The purpose of the payments is to bring the monthly rental charges down to a level that low-income families can afford to pay with at least 25 percent of their adjusted monthly income.

Applicant Eligibility

Applicants for mortgages insured by the Federal Housing Administration and for interest-reduction payments may be nonprofit, limited-dividend, and cooperative entities.

Applications for insured mortgages are made to lending institutions approved by FHA as mortgagees.

Applications for interest-reduction payments where no FHA insurance is involved are made directly to the local FHA insuring office.

Information Source

HUD area office or HUD-FHA insuring office.

Legal Authority

Section 236, National Housing Act (Public Law 73-479), as added by the Housing and Urban Development Act of 1968 (Public Law 90-448).

Administering Office	Function
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner	Aid development and construction
Assistant Secretary for Hous-	Management and loan servicing

EXHIBIT A

APPENDIX L

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
BUFFALO AREA OFFICE
560 MAIN STREET
BUFFALO, NEW YORK 14202

SECTION 235 REGULATIONS

To assist lower income families in acquiring homeownership through reduced interest cost.

Minimum Interest - 1%
Maximum Interest - 7%

Maximum Term - 32 years (35 to 40 upon special authorization).

Miminum Term - 25 years, or 75% of remaining economic life of property.

Maximum Mortgage Amount - See Schedule A for Mortgage Amounts in your locality.

Eligible Properties

1. New or substantially rehabilitated single family dwellings approved by HUD prior to construction or rehabilitation.

2. Rehabilitated two-family dwelling to be owner-occupied, approved by HUD prior to rehabilitation.

3. One-family unit in a condominium, completed within past two years, (project must have been HUD insured if more than 11 units).

EXHIBIT A
APPENDIX L (Cont'd)

4. An existing family dwelling or a family unit in an existing condominium which is to be occupied by a mortgagor of one of the following types:

   a) A family displaced by Government action or major disaster.

   b) A family moving from low-rent public housing.

   c) A family with 5 or more minor persons living in the household.

5. Existing dwelling without regard to 1 through 4 above, limited to the availability of funds.

Refinancing transactions ineligible.

Sales price control - Property may not be sold to the purchaser for more than HUD Estimate of Value (including closing costs)

Minimum Investment - $200.00 may be applied to pre-payable expenses.

Eligible Mortgagors

1. Family of two or more persons related by blood, marriage or operation of law who occupy the same unit.

2. A handicapped person (physical impairment which is expected to be of a long, continued and indefinite duration).

EXHIBIT A
APPENDIX L (Cont'd)

3. Single person 62 years or age or older.

Mortgage Income Limits

1. Regular adjusted family income - See Schedule B.
   Adjusted family income is calculated as follows:

   (Gross income of all working members of the family excluding temporary overtime), less 5% (allowance for Social Security, withholding, etc.) and less $300 for each minor child living in the household.)

Asset Limitations

1. Mortgagor UNDER Age 62* - $2,000.

2. Mortgagor OVER Age 62* - $5,000.

** PLUS $500 for each dependent child, plus applicant's share of mortgage payment. Auto and furniture not considered.

Assistance Payment - Lesser of the two:

1. The difference between the total monthly payment (mortgage insurance premium, principal, interest 7%, taxes, hazard insurance) and 20% of the mortgagor's adjusted monthly income.

2. The difference between the monthly payment, principal, interest 7%, and mortgage insurance premium under the mortgage and the monthly payment to the principal and interest that

EXHIBIT A
APPENDIX L (Cont'd)

would require an interest rate of 1%, excluding HUD premium.

Re-Certification of Income - Minimum every two years.

Application Fee - $40 Existing.
$50 Proposed.

How to Apply for Section 235 Mortgage Insurance:

1. Outstanding Conditional Commitment issued under Section 203(b) or Section 221(d)(2) may be converted to Section 235 Firm Commitments.
2. Approved mortgagees will submit application, Form 2900, with the usual exhibits and Form 3100, Application for Home Ownership Assistance under Section 235.

SPECIAL NOTE: Builders or sellers who anticipate the sale of homes under Section 235 may request the reservation of interest subsidy funds from this Office.

EXHIBIT A

SCHEDULE A.

MORTGAGE LIMITS.

LOCALITY	1-Family	2-Family
BUFFALO - Base City includes City of Buffalo, Grand Island, Counties of Erie, Wyoming, Orleans, Alleghany, Niagara and Genesee.	$21,000*	$30,000
ROCHESTER - Base City includes City of Rochester, Counties of Monroe, Wayne, Livingston, Ontario, Seneca and Yates.	$21,000*	$30,000
ELMIRA - Key Area includes Cities of Corning, Elmira and Counties of Stueben, Schuyler and Chemung.	$21,000*	$30,000
JAMESTOWN - Base City includes City of Jamestown, Counties of Chautauqua and Cattaraugus.	$19,500	$27,000

**Single family limits can be increased up to a maximum of an additional $3,000 on an individual case basis for homes of 4 or more bedrooms and five or more persons.

EXHIBIT A

SCHEDULE B

ADJUSTED FAMILY INCOME LIMITS

COUNTY OR LOCALITY	NUMBER OF PERSONS IN FAMILY									
	1	2	3	4	5	6	7	8	9	10
Alleghany	5,265	6,075	6,885	7,290	7,695	8,100	8,505	8,910	9,180	9,450
Cattraugus	5,670	6,480	7,290	7,695	8,100	8,505	8,910	9,315	9,585	9,855
Seneca Nation	4,320	4,860	5,400	6,010	6,550	7,155	7,695	8,305	8,305	8,305
Chautauqua	4,860	5,670	6,480	7,020	7,425	7,900	8,305	8,775	8,775	8,775
Chemung	5,400	6,210	6,885	7,290	7,695	8,100	8,505	8,910	9,180	9,450
Elmira	5,350	6,240	6,535	6,835	6,980	7,130	7,425	7,725	7,725	7,725
Erie	5,995	6,480	7,290	8,335	8,335	9,545	9,545	10,225	10,495	10,735
Lackawanna	5,130	5,400	6,210	6,480	6,885	7,290	7,560	7,830	7,830	7,830
Genesee	5,265	6,480	7,155	7,695	8,235	8,775	9,180	9,585	9,585	9,585
Livingston	5,940	6,750	7,560	7,965	8,370	8,775	9,180	9,585	9,855	10,125
Monroe	5,670	7,020	7,560	7,965	8,505	9,180	9,855	9,990	10,125	10,395
Niagara	5,400	6,480	7,290	7,830	8,370	8,910	9,450	9,800	9,990	10,260
Ontario	6,075	6,885	7,695	8,100	8,505	8,910	9,315	9,720	9,990	10,260
Orleans	5,940	6,750	7,560	7,965	8,370	8,775	9,180	9,585	9,855	10,125
Schuyler	5,400	6,210	7,020	7,425	7,830	8,235	8,640	9,045	9,315	9,585

	1	2	3	4	5	6	7	8	9	10
Seneca	6,075	6,885	7,695	8,100	8,505	8,910	9,315	9,720	9,990	10,260
Steuben	5,130	5,940	6,750	7,155	7,560	7,965	8,370	8,775	9,045	9,315
Addison										
Campbell										
Corning										
Erwin										
Horby										
Lindly										
Wayne	5,940	6,750	7,560	7,965	8,370	8,775	9,180	9,585	9,855	10,125
Newark	5,130	6,750	7,290	7,695	8,100	8,505	8,010	9,315	9,315	9,315
Yates	5,400	6,210	7,020	7,425	7,830	8,235	8,640	9,045	9,315	9,585
Wyoming	5,345	6,345	7,155	7,560	7,965	8,370	8,775	9,180	9,450	9,720

Dated March, 1972

APPENDIX M

COMPARISON OF TAX RATE IMPACTS OF A HIGH DENSITY DEVELOPMENT AND A LOW DENSITY DEVELOPMENT ON A SCHOOL DISTRICT

To accurately determine the impact of a future residential development of any kind upon school taxes, one would require knowledge of all possible future changes in educational state aid formulas which largely determine the size of the local tax burden. Such knowledge, of course, does not exist. The only alternative available, therefore, is to estimate present tax impacts on the assumption that the residential development has already been built and that its children are already attending schools. In other words, what would this year's tax rate be if both a high density development, and an additional conventional development, had been built in the recent past?

The tax impact of any residential development with school children varies for three years until it reaches a point of stabilization. This is due to the present state aid formula system and the Monroe County Sales Tax distribtuion method which fully recognize additional full valuation and enrollment only two years after they have been added to a school district.

In the interim period the state aid formula provides a transitional "growth aid" for the first year and a similar amount for the second year resulting from the application of an adjusted aid ratio to increased

EXHIBIT A

APPENDIX M (Cont'd)

operating expenses eligible for aid. In the third year after the construction of a residential project the tax impact will stabilize because its full valuation then has been incorporated into the computation of the aid ratio for that year and its enrollment has been included in the distribution formula for the Monroe County Sales Tax.

The calculations on the following pages demonstrate in detail the fiscal effects of the addition of the two developments.

EXHIBIT A

APPENDIX M (Cont'd)

1. Computation of the Tax Base for a Low Density (1.75 unit/acre) Project.

a.	65 times $37,500 =	$ 2,437,500.00
b.	___ times $_____ =	$_____
c.	Sub total	$_____
d.	Minus present Full Value of site	$ 30,810.81
e.	Net increase in Full Valuation	$ 2,406,689.19
f.	Present Full Valuation of school district	$197,375,244.00
g.	New Full Valuation	$199,731,933.00

Computation of per pupil costs multiplier

a.	Total 1971-72 appropriations/ pupil	$ 1,647.79
b.	Minus principal and interest on debt service/pupil	$ 202.07
c.	Minus Operation and Maintenance of plant/pupil	$ 132.06
d.	Minus board of education expense/ pupil	$ 5.50
e.	Minus other/pupil	$_____
f.	Net cost per additional pupil	$ 1,308.16

Additional cost for 115 new pupils $ 150,438.40

EXHIBIT A

APPENDIX M (Cont'd)

2. Computation of the Tax Base for a High Density (9.5 units/acre) Project

a. ___ times $ ___ =	$	
b. 350 times $18,400 =	$	6,440.000.00
c. Sub total	$	
d. Minus present Full Value of site	$	30,810.81
e. Net increase in Full Valuation	$	6,409,189.19
f. Present Full Valuation of school district	$	197,325,244.00
g. New Full Valuation	$	203,734,433.00

Computation of per pupil costs multiplier.

a. Total 1971-72 appropriations/ pupil	$ 1,647.79
b. Minus principal and interest of debt service/pupil	$ 202.07
c. Minus Operation and Maintenance of plant/pupil	$ 132.06
d. Minus board of education expense/ pupil	$ 5.50
e. Minus other/pupil	$
f. Net cost per additional pupil	$ 1,308.16

Additional cost for 175 new pupils $,228,928.00

EXHIBIT A

APPENDIX M (Cont'd)

3. a. Average Full Value Tax Rate/1000 $ 22.98
   b. Equalization Rate $ .37
   c. Assessed Value Tax Rate/1000 Assessed $ 62.112

Tax Impact in 1971-72 if project had been completed by first quarter of 1971-72.

	Low Density Project	High Density Project
1. Growth Aid		
a. Actual 1971-72	$ -0-	$ -0-
b. New	$ 8,913.25	$ 38,624.10
c. Increase	$ 8,913.25	$ 38,624.10
2. 1971-72 Tax Impact		
a. Gross add. cost	$150,438.40	$228,928.00
b. Growth aid incr.	$ 8,913.25	$ 38,624.10
c. Net cost increase	$141,525.15	$190,303.90
d. Net change in Full Value Tax Rate	+.43 If on 71-72 rolls	+.21
e. Net change in assessed value. Tax rate/1000 assessed value	+1.17	+.594

EXHIBIT A

APPENDIX M (Cont'd)

Tax impact in 1971-72 if project had been completed by first quarter of 1970-71.

1. Aid ratio unchanged	0.571	0.571
2. Operating Expense Aid		
a. WADA for aid present	$ 6,050.35	$ 6,050.35
b. WADA for aid new	$ 6,165.35	$ 6,225.35
c. Operating exp.aid present	$2,971,084.87	$2,971.084.87
d. Operating exp. aid new	$3,027,556.77	$3,057.028.37
e. Aid increase	$ 56,471.90	$ 85,935.50
3. Building Aid. No change		No change
4. Transportation Aid		
a. Present	$ 289,881.99	$ 289,881.99
b. New	$ 295,391.82	$ 298,266.52
c. Aid increase	$ 5,509.83	$ 8,384.53
5. High Tax Rate Aid		
a. Present	$ 22,135.79	$ 22,135.79
b. New	$ 24,661.52	$ 22,135.79
c. Increase	$ 2,525.73	$ -0-

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EXHIBIT A

APPENDIX M (Cont'd)

6. 1971-72 Tax Impact		
a. Gross Addit. cost	$ 150,438.40	$ 228,928.00
-Op.aid incr.	$ 56,471.90	$ 85,935.50
-Tr.aid incr.	$ 5,509.83	$ 8,384.53
-High tax rate aid incr.	$ 2,525.73	$ -0-
b. Net cost increase	$ 85,930.94	$ 134,607.97
c.Net change in full Value	+.15	-.06
d.Net change in Assessed Value Tax Rate/ 1000 Assessed Value	+.405	-.162

Tax Impact in 1971-72 if project had been completed by first quarter of 1969-70.

	Low Density	High Density
1. Aid ratio		
a. Present	0.571	0.571
b. New	0.573	0.568

EXHIBIT A

APPENDIX M (Cont'd)

	Low Density	High Density
2. Op.Expense Aid.		
a. Present	$2,971,084.87	$2,971,084.87
b. New	$3,038,161.17	$3,040,958.97
c. Aid increase	$ 67,076.30	$ 69,874.10
3. Building Aid		
a. Present	$ 513,883.51	$ 513,883.51
b. New	$ 515,683.45	$ 511,183.50
c. Aid increase	$ 1,799.94	$ -2,699.91
4. Transportation Aid		
a. Present	$ 289,881.99	$ 289,881.99
b. New	$ 295,391.82	$ 298,266.52
c. Aid increase	$ 5,509.83	$ 8,384.53
5. High Tax Rate Aid		
a.Present	$ 22,135.79	$ 22,135.79
b.New	$ 34,787.86	$ 17,657.23
c.Aid increase	$ 12,652.07	$ -4,478.56
6. Additional Sales Tax allocation	$ 9,048.20	$ 13,769.00
7. 1971-72 Tax Impact.		
a. Gross Addit. cost	$ 150,438.40	$ 228,928.00
-Op.aid incr.	$ 67,076.30	$ 69,874.10

EXHIBIT A

APPENDIX M (Cont'd)

	Low Density	High Density
-Build. aid incr.	$ 1,799.94	$ -2,699.91
-Trans.aid incr.	$ 5,509.83	$ 8,384.53
-High tax rate aid	$ 12,652.07	$ -4,478.56
-Sales tax incr.	$ 9,048.20	$ 13,769.00
b.Net increase (surplus)	$ 54,352.05	$ 144,078.84
c.Net change in Full Value	-.01	-.02
d.Net change in Assessed Value Tax Rate/ 1000 Assessed Value	-.029	-.054

Summary

1971-72 Full Value Tax Rate Impacts

	Low Density Project	High Density Project
1st Year Project	+.43	+.21
2nd Year	+.15	-.06
3rd and Subsequent years	-.01	-.02

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EXHIBIT C

Population by Race
Monroe County, City and Towns
1960,1964, 1970

	Total Pop.	White	1960 Negro	Other
Monroe County	586,387	561,321	23,184	882
City of Roch.	318,611	294,383	23,586	642
Balance of County	267,776	266,938	598	240
Brighton	27,849	27,762	51	36
Chili	11,237	11,195	23	19
Clarkson	2,339	2,297	41	1
Gates	13,755	13,738	5	12
Greece	48,670	48,616	12	42
Hamlin	2,755	2,704	40	11
Henrietta	11,598	11,574	11	13
Irondequoit	55,337	55,277	34	26
Mendon	3,902	3,894	5	3
Ogden	7,262	7,247	6	9
Parma	6,277	6,227	44	6
Penfield	12,601	12,572	23	6
Perinton	16,314	16,299	8	7
Pittsford	15,156	15,134	16	6
Riga	2,800	2,781	16	3

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EXHIBIT B

U.S GOVERNMENT OUTLAYS FOR VARIOUS FUNCTIONS
BY FISCAL YEAR
(MILLIONS OF DOLLARS)

FUNCTION	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972*	1973*
555	155	170	198	37	81	391	478	948	871	1,280	1,243	1,674	2,066
550	191	589	-880	-185	288	2,644	2,616	4,076	1,961	2,965	3,357	4,039	4,844
ALL	97,795	106,813	111,311	118,584	118,430	134,652	158,254	178,833	184,548	196,588	211,425	236,610	246,257

* ESTIMATED

NOTES: ALL = TOTAL FEDERAL OUTLAYS FOR ALL PURPOSES
550 = TOTAL FEDERAL OUTLAYS FOR COMMUNITY DEVELOPMENT & HOUSING (INCLUDES HUD & OEO). NEGATIVE NUMBERS INDICATE INFLUENCE OF RECEIPTS FROM "MAINTENANCE OF HOUSING MORTGAGE MARKET (554)" AND DEDUCTIONS FOR OFFSETTING OTHER RECEIPTS.
555 = TOTAL FEDERAL OUTLAYS FOR LOW AND MODERATE INCOME HOUSING AIDS (INCLUDES SUBSIDIZED HOUSING PAYMENTS, SPECIAL ASSISTANCE, & REHABILITATION LOANS).

FY	TOTAL SUBSIDIZED NEW & REHAB. UNITS**	REVISED GOAL **
1969	191,600	198,000
1970	324,800	310,000
1971	530,000	505,000
1972	695,000	650,000

** SOURCE-"THIRD ANNUAL REPORT ON HOUSING GOALS", JUNE 29, 1971, U.S. GOVERNMENT PRINTING OFFICE

V.F. VINKEY
4/23/71

EXHIBIT 585

1964

	Total Pop.	White	Negro	Other
Monroe County	625,128	591,634	32,561	933
City of Roch.	305,849	273,509	31,751	589
Balance of County	319,279	318,125	810	344
Brighton	29,898	29,759	59	80
Chile	13,068	13,016	42	10
Clarkson	2,807	2,744	60	3
Gates	16,405	16,385	12	8
Greece	59,059	58,995	24	40
Hamlin	3,152	3,077	57	18
Henrietta	17,821	17,751	51	19
Irondequoit	60,704	60,711	53	40
Mendon	4,177	4,175	2	0
Ogden	9,399	9,379	7	13
Parma	8,350	8,294	43	13
Penfield	17,337	17,288	22	27
Perinton	20,416	20,393	9	14
Pittsford	18,962	18,922	16	24
Riga	3,209	3,191	18	0
Rush	2,840	2,703	130	7
Sweden	8,377	8,289	82	6

EXHIBIT 584

1960 (cont'd.)

	Total Pop.	White	Negro	Other
Rush	2,555	2,439	105	11
Sweden	7,224	7,186	37	1
Webster	16,434	16,406	10	18
Wheatland	3,711	3,590	111	10

EXHIBIT C 587

1970

	Total Pop.	White	Negro	Other
Monroe County	711,917	655,821	52,218	3,878
City of Roch	296,233	244,118	49,647	2,468
Balance of County	415,684	411,703	2,571	1,410
Brighton	35,065	34,453	370	242
Chili	19,609	19,417	138	54
Clarkson	3,642	3,575	60	7
Gates	26,444	26,280	104	58
Greece	75,136	74,704	227	205
Hamlin	4,167	4,093	58	16
Henrietta	33,017	32,259	594	164
Irondequoit	63,675	63,355	170	150
Mendon	4,541	4,534	5	2
Ogden	11,736	11,656	54	26
Parma	10,748	10,652	81	15
Penfield	23,782	23,625	60	97
Perinton	31,568	31,446	38	84
Pittsford	25,058	24,879	102	77
Riga	3,746	3,697	33	16
Rush	3,287	3,137	142	8

586 EXHIBIT C

1964 (cont'd.)

	Total Pop.	White	Negro	Other
Webster	19,284	19,050	27	7
Wheatland	4,014	3,903	96	15

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EXHIBIT D

Re-Capitulation of the 1971-72 tax roll by Categories

Taxable and partially exempt properties

Category	No of Accts	assessed value
Residences	5143	$47,484,450
Farms	322	3,312,900
Vacant Land	692	1,996,900
Trailer Parks	5	1,852,400
Shopping Centers	8	2,643,500
Commercial Bldgs.	116	3,428,800
Industries	13	911,400
Gas Stations	19	493,200
Apartments	15	4,597,600
Country Club & Recreational properties	2	165,300
Utilities	12	2,498,288
Special Franchise	4	2,268,605
Railroad	1	10,700
Total	6352	$71,664,043

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EXHIBIT C

1970 (cont'd.)

	Total Pop.	White	Negro	Other
Sweden	11,461	11,256	124	81
Webster	24,739	24,549	88	102
Wheatland	4,265	4,136	123	6

591 EXHIBIT D

Re-Capitulation of the 1970-71 tax roll by Categories

Taxable and partially exempt properties

Category	No of Accts	Assessed Value
Residences	4924	$45,568,800
Farms	322	3,235,500
Vacant land	731	2,274,200
Trailer Parks	5	1,811,900
Shopping Centers	6	2,147,200
Commercial Bldgs.	116	3,680,000
Industries	13	917,800
Gas Stations	21	540,100
Apartments	14	4,520,700
Country Club	1	70,400
Utilities	12	2,387,700
Special Franchise	4	1,996,452
Railroad	1	14,672
Total	6170	$69,165,424
Veterans exemptions on above		1,237,900
Aged exemptions on above		117,300
Ministers' exemptions on above		3,000

590 EXHIBIT D

Taxable and partially exempt properties (Cont'd)

		assessed value
given by vet.bur. (1500 ea)	Veteran exemptions on above	$ 1,270,900
	Aged exemptions on above	262,250
	Ministers' exemptions on above	4,500

Fully Exempt properties

Churches	13	$ 1,141,600
Parsonages	12	107,000
School s	12	4,521,200
School land vacant	7	38,100
Church land vacant	4	8,500
Miscellaneous vacant land	16	87,600
Exempt properties	26	97,500
Total	90	$ 6,881,500

593 EXHIBIT D

Re-Capitulation of the 1969-70 tax roll by Categories

Taxable and partially exempt properties

Category	No of Accts	Assessed value
Residences	4801	$29,981,200
Farms	326	2,055,100
Vacant land	752	819,300
Trailer Parks	5	1,128,300
Shopping Centers	5	1,303,500
Commercial Bldgs.	101	2,076,100
Industries	13	653,800
Gas Stations	23	234,900
Apartments	13	2,647,700
Country Club	1	44,100
Utilities	13	1,235,900
Special Franchise	4	1,297,960
Railroad	1	11,696
Total	6058	$43,489,556
Veterans exemptions on above		1,110,900
Aged exemptions on above		72,000
Ministers' exemptions on above		3,000

592 EXHIBIT D

Fully exempt properties

Churches	12	$ 756,000
Parsonages	12	107,000
Schools	12	3,897,000
School land vacant	6	74,600
Church land vacant	5	8,500
Miscellaneous vacant land	15	111,700
Exempt properties (Town, County parks, cemeteries, etc.)	25	943,700
Total	87	$5,898,500

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EXHIBIT D

Re-Capitulation of the 1968-69 tax roll by Categories

Taxable and partially exempt properties

Category	No of Accts	Assessed value
Residences	4669	$28,417,000
Farms	301	1,844,000
Vacant land	771	855,700
Trailer Parks	5	1,172,600
Shopping Centers	5	1,296,300
Commercial Bldgs.	93	1,918,600
Industries	13	634,700
Gas Stations	21	218,900
Apartments	12	2,217,300
Country Club	1	38,100
Utilities	13	798,800
Special Franchise	4	1,280,186
Railroad	1	13,367
Total	5909	$40,708,553
Veterans exemptions on above		970,200
Aged exemptions on above		73,750
Ministers' exemptions on above		3,000

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EXHIBIT D

Fully exempt properties

Churches	12	$ 459,200
Parsonages	11	62,400
Schools	12	2,890,700
School land	6	13,500
Church land	4	3,500
Miscellaneous vacant land	14	32,300
Exempt properties (Town, County parks, cemeteries, etc.)	23	614,700
Total	82	$4,076,300

PROPERTY VALUES

The relationship which assessed value of a municipality bears to its full value is determined annually by the state in order to insure the equitable distribution of items which are levied or disbursed ad valorem among the various municipalities. This ratio of assessed to full value, or "equalization rate," for the Town of Penfield is shown for past years in Table. It is strongly

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EXHIBIT D

Fully exempt properties

Churches	12	$ 459,200
Parsonages	10	52,400
Schools	12	2,810,300
School land	6	13,500
Church land	3	2,700
Miscellaneous (Town, County parks, cemeteries, etc.)	31	625,100
Total	74	$3,963,200

TABLE B (Cont'd)

Source: Special Report of Municipal Affairs by the State Comptroller, 1950-1963: Proceedings of the Monroe County Board of Supervisors, 1949-1965; 1964 & 1965 NYS equalization rates supplied by the Monroe County Department of Assessment and Taxation.

TABLE B

ASSESSED VALUE OF EXEMPT AND TAXABLE PROPERTY REAL & FRANCHISE, STATE AND COUNTY EQUALIZATION RATES, 1950 - 1965
Town of Penfield, New York (Current Dollars)

Tax Year	Taxable Real Property	Taxable Franchise Property	Total Taxable Property	Wholly Exempt Property	Equalization Rate (%) County	State
1966	29,896,195	1,117,677	31,013,872		28	
1965	28,619,595	1,065,933	29,685,528		28	28
1964	26,079,021	974,996	27,054,017		29	28
1963	24,248,420	875,284	25,123,704	2,282,700	30	29
1962	22,418,960	806,475	23,225,435	2,168,800	34	30
1961	20,125,660	686,185	20,811,845	1,963,800	37	34
1960	14,916,860	738,892	15,655,752	1,225,700	39	30
1959	13,033,460	713,817	13,747,277	948,400	38	38
1958	12,032,660	632,872	12,665,532	857,700	38	38
1957	10,780,960	544,292	11,325,252	764,400	35	38
1956	9,333,140	469,326	9,802,466	447,900	49	49
1955	8,249,660	496,215	8,745,875	464,724	49	49
1954	7,822,560	417,600	8,240,160	294,400	90	90
1953	7,117,652	335,120	7,452,772	294,400	80	80
1952	6,368,570	310,760	6,679,330	294,400	80	80
1951	5,755,130	284,360	6,039,490	294,400	80	80
1950	5,196,188	267,400	5,463,588	294,400	80	80

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EXHIBIT E

	1962 - 1963	1963 - 1964	1964 - 1965
Religious Communities	978,820	978,820	950,190
Churches	20,665,240	21,774,200	21,349,680
Parsonages	1,193,230	1,272,610	1,325,730
Clergymen,Residences	151,500	102,000	154,500
Paraplegic Pensioners	26,740	26,740	21,940
Fall Out Shelter		3,090	6,390
Housing Projects	0	0	0
	170,345,524	170,138,331	168,795,635
Pensioners	13,841,330	13,917,555	13,800,715
Grand Total	184,186,854	184,055,886	182,596,350

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EXHIBIT E

EXEMPT PROPERTY TOTALS

as of July 1st,

	1962 - 1963	1963 - 1964	1964 - 1965
United States of America	3,970,770	3,970,770	3,970,770
State of New York	26,186,551	18,637,082	18,631,500
County of Monroe (Civic Center)	5,071,286	6,039,223	7,110,393
County of Monroe & City of Rochester	1,180,943	1,190,943	1,190,943
City of Rochester	31,736,315	32,188,445	30,862,764
City of Rochester - Land only	994,877	1,151,198	1,394,405
City of Rochester - Land & Buildings	317,890	273,050	363,250
Subway	6,693,764	6,695,274	6,695,274
Public Schools	28,103,502	32,140,652	28,539,892
Educational	22,018,480	23,124,510	25,514,100
Libraries	1,420,644	1,338,044	1,338,144
Character Building Agencies	4,039,330	4,049,950	4,049,950
Clubs and Associations	3,219,690	3,215,010	3,353,580
Charitable	11,063,042	10,663,810	10,669,330
Cemeteries	1,302,910	1,302,910	1,302,910

EXHIBIT E 603

	1965 - 1966	1967 - 1968	1968 - 1969
Religious Communities	951,390	912,830	920,190
Churches	21,605,180	21,867,360	21,788,920
Parsonages	1,355,550	1,390,740	1,383,680
Clergymen, Residences	148,500	139,500	138,000
Paraplegic Pensioners	21,940	35,940	35,940
Fall Out Shelter	6,390	3,640	3,640
Housing Projects	0	6,055,919	7,335,179
	173,684,273	184,849,684	190,150,211
Pensioners	13,963,525	13,797,045	13,481,745
Grand Total	187,647,798	198,646,729	203,631,956
		Aged Exemptions	5,646,590
		Grand Total	209,278,546

EXHIBIT E 602

EXEMPT PROPERTY TOTALS

as of July 1st,

	1965 - 1966	1967 - 1968	1968 - 1969
United States of America	3,970,770	4,518,230	4,518,230
State of New York	18,713,379	14,846,086	14,855,847
County of Monroe (Civic Center)	8,169,287	8,957,677	11,041,425
County of Monroe & City of Rochester	174,660	174,660	174,660
City of Rochester	31,678,950	30,715,351	30,668,533
City of Rochester-Land only	1,046,257	3,228,231	4,752,361
City of Rochester-Land & Buildings	267,470	3,760,930	1,954,516
Subway	6,690,274	6,709,884	6,709,614
Public Schools	28,605,512	28,662,992	30253.572
Educational	26,601,850	28,288,290	28,588,290
Libraries	1,420,644	1,420,644	1,420,644
Character Building Agencies	4,059,140	4,064,540	3,960,420
Clubs and Associations	3,369,980	3,141,480	3,077,030
Charitable	13,500,340	14,628,250	15,246,710
Cemeteries	1,326,810	1,326,810	1,326,810

EXHIBIT E 603

	1969-70	1970-71	1971-72
Churches	21,811,940	21,945,160	21,663,130
Parsonages	1,466,260	1,438,160	1,664,010
Clergymen(Residence)	112,500	106,500	94,500
Paraplegic Pensioners	35,940	35,940	35,940
Pollution Control E.K.C.			1,225,000
Fall Out Shelters	3,640	3,640	3,640
Housing Projects	7,646,774	11,194,226	11,463,716
	$194,983,447	214,600,505	$219,113,269
Pensioners	13,144,980	12,785,570	12,595,170
	$208,128,427	227,386,075	231,708,439
Aged Exemptions	4,493,460	4,903,110	5,214,530
Grand Total	$212,621,887	$232,289,185	$236,922,969

EXHIBIT E 604

EXEMPT PROPERTY TOTALS
as of July 1st,

	1969-70	1970-71	1971-72
United States of America	4,518,230	4,518,230	4,518,230
State of New York	14,034,187	12,848,792	14,956,298
County of Monroe (Civic Center)	12,892,785	23,250,975	23,096,465
County of Monroe & City of Rochester	174,660	1,111,000	1,111,000
City of Rochester	30,597,774	35,470,310	35,163,220
City of Rochester Land Only	3,348,275	3,589,200	2,281,854
City of Rochester Land & Bldgs.	928,136	1,926,836	1,002,700
Urban Renewal Land & Bldgs.			4,645,168
Subways	6,709,614	6,709,614	6,745,006
Public Schools	32,245,572	32,273,092	32,643,562
Urban Renewal Agencies			457,730
Educational	31,969,080	29,809,970	30,476,290
Libraries	1,999,670	1,987,670	2,014,970
Character Building Agencies	3,880,350	3,880,350	3,075,580
Clubs & Associations	3,086,930	3,563,530	2,609,430
Charitable	15,827,370	17,273,570	16,296,510
Cemeteries	1,326,810	1,326,810	1,321,730
Religious Communities	366,950	336,930	547,590

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EXHIBIT G

CITY OF ROCHESTER TAX RATES

Figures in $ per $1000 assessed valuation
Services not included

Year *	City Rate	School Rate	City Totals	Monroe County for City residents	Total Rate
1959	24.50	17.56	42.06	14.12	56.18
60	24.30	21.09	45.39	14.23	59.62
61	24.30	23.22	47.52	14.14	61.66
62	24.30	24.10	48.40	14.55	62.95
63	24.30	24.27	48.57	14.18	62.75
64	24.30	24.27	48.57	15.78	64.35
65	26.68	26.87	53.55	19.24	72.79
66	27.59	27.87	55.46	19.63	75.09
67	29.08	28.87	57.95	18.55	76.50
68	29.08	29.47	58.55	18.12	76.67
69	31.66	32.36	64.02	24.77	88.79
1970	31.66	36.25	67.91	22.56	90.47
71	33.68	42.68	76.36	27.16	103.52
72	33.68	47.27	80.95	28.06	109.01

* City & School rates are for Fiscal year -
July to July ending in Year listed

HEB 4/72

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EXHIBIT F

City Tax Base Is Declining

The Rochester city government will have less property to tax this year, and urban renewal is a major reason, the City Council was told last night.

The city's tax base declined by $6,355, to $760,488,080, largely because the amount of tax exempt property grew, City Manager Kermit E. Hill reported.

Exemptions increased by more than $10.8 million, bringing total tax-exempt property to almost $234 million.

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EXHIBIT H

THE TIMES-UNION Local Front Section B
Rochester, N.Y., Wednesday Evening, April 26, 1972

TV Radio . .
Theaters . . .
Suburb . . . .

The City's Money Woes Grow

Taxes Will Rise, Mayor Confirms

By TOM MINNERY

City and school taxes in Rochester will be increased for the next fiscal year, starting July 1, Mayor Stephen May confirmed last night.

He did not say what the new tax rates would be. Administration officials apparently have not yet settled on a figure. The city tax rate now is $33.48 per $1,000 of assessed property value and the school tax rate is $47.37.

City Manager Kermit Hill said yesterday he has informed the city employe unions that no money will be available in the new budget for salary increases.

City firefighters are scheduled to receive a salary increase July 1. The Locust Club, bargaining agent for policemen, and Local 1635, representing other employes, are currently negotiating new contracts to take effect July 1.

The City Council Republican majority announced earlier this month that the estimated $5 million budget deficit has been reduced to $4 million. Rumored cuts in fire and police ranks would not be necessary if unions worked through the next fiscal year with no increases, the councilmen said in a statement. All three unions rejected the offer.

Hill would not elaborate on the employe salary problem. He said he risked a charge of an unfair labor practice by commenting while negotiations continue.

Portions of the new city budget are nearly complete and will be sent out for printing in a few days. Hill said recently that the tax rates will be the last items figured.

The entire budget proposal must be finished to present to City Council May 15. A budget must be approved by June 15. Public hearings on both the school and city budgets will be held before they are adopted. Dates have not yet been announced.

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EXHIBIT I

...67 PENFIELD PRESS, Penfield, N.Y., June 1, 1972

EIGHT PAGES IN ONE SECTION

Moderate Income Housing Favored

The Penfield Housing Task Force, appointed by the Town Board to study housing needs in the town, has finished one of its tasks, an Opinion Survey of residents' attitudes toward moderate income housing in Penfield, and has published the results.

Pierre Coste of Woodhaven Drive, chairman of the Housing Task Force said results indicate that "a majority of the people of Penfield hold a generally favorable attitude toward moderate income housing in the town."

Coste added: "Actually the Opinion Survey was one part of the three month Task Force effort. We studied housing needs in the County, Penfield's "fair share" of these needs, styles of construction for moderate income housing, Penfield's Zoning Ordinance, and government housing programs. At this Monday's (June 5th) Penfield Town Board meeting the Housing Task Force will present its report which includes some specific recommendations for action by the Town Board. I hope we'll have a good turnout at the meeting so that questions can be raised and answered."

John Peterson, Survey Coordinator, stated: "We received 811 returns from the 2319 questionnaires mailed. We were very pleased with this 35% return." The questionnaire contained 29 statements to which Penfielders were asked if they "Agree Strongly," "Agree," to hold no opinion, "Disagree" or "Disagree Strongly" plus demographic questions. Peterson indicated that responses to eight of the statements were scored to form an Opinion Index. Analysis showed that 19 percent of the respondents had an Opinion Index in the neutral range while 36 per cent were in the negative range and 49 percent were in the positive range. Peterson commented that this difference is statistically significant and not random chance.

Pierre Coste, Housing Task Force Chairman, said: "I believe the survey accurately reflects the opinions of Penfielders in general. We sent questionnaires to every fifth person in the voter registration lists and the 811 returns seem to be representative of the people of Penfield. For example, 66% of the respondents live in a private home; 69% have lived in Penfield over five years and 35% were between 36 and 55 years of age. I think this reflects the heartland of Penfield residents."

Questions of opinion in which responses were 60% above or below the neutral range were summarized as follows:

81% would be more favorable to an apartment house or town house if it was known that residents were paying their "fair share" of town services.

65% feel decent housing is the right of every citizen.

78% feel the Planning and Zoning Boards are obliged to enforce strict zoning laws to protect existing property owners.

73% feel more housing is needed for senior citizens.

72% feel the Town should formulate plans and take actions which will provide moderate income housing which best serves the progress of the Town.

65% do not presently find the idea of living in a condominium appealing. This reduces to 44% if the family is grown up (quest. No. 10).

66% do not approve of federal mortgage assistance for moderate income families.

65% feel a shortage of moderate income housing exists in Monroe County.

65% do not approve of tax abatement of local property taxes to provide moderate income housing in Penfield (in general).

64% approve of tax abatement of local property taxes to provide moderate income housing in Penfield for the elderly (specifically).

64% feel more housing is needed for young families.

63% would not object to living within one mile of moderate income dwellings. This reduces to 42% if the distance is reduced to 1/4 mile (quest. No. 16).

63% feel more housing is needed for moderate income industrial and public service workers.

Among Personal Data Questions:

90% own their present dwelling.

82% reside in a private home.

76% expect to live in Penfield for more than five years.

69% have lived in Penfield for more than five years.

69% feel they understand the main issues.

Analysis is continuing to summarize written-in comments, to establish the significance of the fact sheet, and to further condense the cross tabulated question pairs. These results will be included in a follow up report.

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6B ROCHESTER DEMOCRAT AND CHRONICLE Tuesday, June 6, 197

Moderate Income Housing Said Needed in Penfield

BY BRAD KNICKERBOCKER

Penfield will have to allow construction of at least 2,000 moderate income housing units by 1980 to meet its "fair share" of the county's need for such housing, Town Board members were told last night.

The Penfield Housing Task Force, appointed three months ago by the board to analyze the need for moderate income housing and recommend the types and quantity that should be built, also advised the board to:

• Permit and encourage the construction of a variety of housing styles, types of construction and house lot sizes.

• Adopt changes to the present zoning ordinance necessary to permit the broad variety of approaches to moderate income housing recommended.

• Acknowledge a preference for the construction of moderate income housing by private industry, but consider governmental subsidized proposals as well.

• Encourage such housing in areas of the town in addition to the Penfield Road-Webster-Fairport Road area.

• Review and update the task force's recommendations every two years.

Task force chairman Pierre Coste said the group did not recommend specific changes in the town's zoning ordinance, but cautioned that, "higher densities per acre than those allowed by the present ordinance may be required."

He said the group could not agree on a recommendation concerning the town's planned unit development ordinance. The ordinance originally called for a maximum density of 5.2 units per acre, but was reduced last year to 4.0 units per acre.

The Monroe County Planning Council recommends that such ordinances contain no density requirement and Penfield Supervisor Irene L. Gossin said last April, "The concept of the planned unit development is flexible and if you restrict it, it tends to increase costs and make it inflexible."

Based on current figures for state aid to local schools, the task force found that moderate income housing would cost taxpayers less than high income housing.

"The residents in the moderate income development ... the report concluded, "are paying their 'fair share' better than the residents in the high income development."

Penfield Homes Poll 'Surprise'

Pollsters in Penfield say more residents favor moderate-income housing there than oppose it.

Penfield Housing Task Force members and town officials said they were "surprised" and encouraged by the results of the task-force poll.

Thirty-five per cent of their 3,339 mail questionnaires were answered. Forty-nine per cent of those who answered had "positive" opinions of moderate-income housing, 36 per cent were "negative" and 15 per cent were "neutral."

The questions aimed to find these percentages related to a low-income housing need in Penfield, the town's role in answering Monroe County's need for such housing, whether the person who answered objected to moderate-income housing near his home and whether the town should provide moderate-income housing "which best serves the program of the town."

Thirty-two per cent agreed that "Most people I know feel that when moderate-income groups move into a neighborhood there follows a downgrading of neighborhood appearance and property values."

The percentage jumped to 48 per cent when that question was asked about minority groups instead of moderate-income groups.

Forty-seven per cent said they object to moderate-income housing within one-quarter mile of their home. It dropped to 30 per cent when the housing was to be one-half mile away, and 25 per cent when moved a mile away.

Residents who answered split nearly evenly on whether the state Urban Development Corp.'s plan to build 234 low-and moderate-income subsidized apartments and town houses in Penfield is a "step in the right direction." But they overwhelmingly disapproved of property-tax abatements and federal government mortgage assistance to provide moderate-income housing.

Eighty-six per cent agreed they "would be more favorable toward an apartment-house or town-house project in my neighborhood if I knew the residents would be contributing their 'fair share' to finance such town services as schools, sewers, roads etc."

"I can't say it's an overwhelming mandate the way I read it," said Walter W. Peter, town councilman.

"Thing that clouds it is that people are not in favor of real-estate tax subsidies. They're not in favor if it affects their taxes."

Dr. J. Donald Hare, town councilman and co-chairman of the task force, said, "By and large it's surprising and encouraging that there's a stronger positive feeling than negative.

"In general, (the task force members) feel that the town should join the other communities in Monroe County in helping to provide housing."

Irene L. Gossin, Penfield supervisor, said, "I'm very agreeably surprised that the town seems to be responsive to responsible moderate-income housing."

Pierre Coste, task force chairman, said the group's recommendations to the town board, won't be made public until tomorrow night's town board meeting, but he hinted it may recommend changes to the town's zoning and deeds laws.

Zoning laws, density requirements and constructing costs, he said, now prohibit moderate income housing in Pen[illegible]

JUNE 4, 197[illegible]

16B ROCHESTER DEMOCRAT AND CHRONICLE Sunday, 1972

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EXHIBIT L

THE TIMES-UNION
Rochester, N.Y., Tuesday Evening, June 6, 1972
Page 6B

THE TAXPAYER

Suburb

Housing plan opponent Says, 'I can't afford it!'

Teachers Picket

There are some of the Penfield school teachers who picketed yesterday at school district offices against the proposed budget and their dissatisfaction with what they call lack of progress on contract negotiations. Some teachers demonstrated again today and say they will continue until the June 13 annual meeting. District has been at an impasse in contract talks since May 23.

By LINDA VAN KIRK

Emory W. Miller is one person who was disturbed last night by the report made by the Penfield Housing Task Force.

The task force report recommended, among other things, that the town build an additional moderate-income housing units by 1981.

Miller lives at 27 Hillary Lane on a $40,000 home. He is a consultant for Exploration Services. He has three children, three of whom are in Penfield schools. He says he pays over a month in city and school taxes.

And Miller does not want to see 2,000 more moderate-income housing units in Penfield by 1981.

"Why am I going to pay for the moderate-income housing? Who is going to pay the taxes for sewers, services, roads and, worst of all, schools? The established residents are going to pay," he says.

This is Miller's main concern — that more moderate-income housing will push his tax rate higher.

He takes issue not only with the task force's recommendations.

"I would like more representation on the task force. I would like to see a task force formed to study the whole problem of housing in Penfield. I don't see why Penfield should be picked as a location for moderate-income housing. In five of 10 years any moderate-income housing project will be a high, a high, big 100-acre high, multi-family units are built out of those pages."

Miller says he will be at the next town board meeting to check on whether the task force's recommendations are accepted.

"I don't want Penfield to become a low-cost development that I could move to the next city," he says. "The task force is going to have to modify either its statistics or its values."

Penfield supervisor Irene Gordon says that some modifications may be made in the recommendations but not necessarily at the next town board meeting.

"We'll be studying this thing very, very hard through the whole summer," she says. "I don't know if we'll act on the whole report. We may want to modify certain recommendations and act on them. At any rate, before we take any action, we'll hold public hearings."

Mrs. Gordon, who was the only member of the town board, commended the housing task force March 6 says the report carried several things

It appears that people don't want to spread all their housing in one area of the town in addition to the Penfield Road - Walker - Fairport Road area. (There are currently 670 units which proposed for this area including a project planned by the Urban Development Corporation.)

—That the recommendations of the task force be reviewed and updated in two years.

The task force found that 18 per cent of the housing in Penfield is in the moderate-income range. Of the suburban towns only Brighton, Pittsford, Henrietta and Perinton have lower percentages.

Coste says that single-family homes selling for $25,000 or less would be "very difficult" to build. Consequently, the task force recommends the construction of town houses and multiple units in this price range.

He says that although the group did not ask for any specific changes in the town zoning ordinance, "higher density may be required."

And he says that Penfield does not have an adequate share of the fair share of low and moderate income housing, a philosophy of the state

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EXHIBIT M

Decent Housing Called a Right

By LINDA VAN KIRK

[redacted] a survey by the Housing Task [redacted] housing is [redacted].

But 47 per cent would object to living within a quarter-mile of moderate-income dwellings.

These are some of the results of an opinion survey conducted among 2319 Penfield residents in mid-April. Thirty-five per cent of the citizens returned the 63-question survey.

The 13-member Housing Task Force was formed March 6 to determine moderate-income housing needs in Penfield. The group will present its report tonight and make some recommendations to the town board.

The group's report will combine the results of the opinion survey, a study of housing needs in Monroe County, a determination of Penfield's "fair share" of those needs, a study of styles of moderate-income housing, a review of the town zoning ordinance and a look at government housing projects.

Pierre Coste, chairman of the task force, said the group's recommendations will reflect the results of the opinion survey.

Seventy-two per cent of those responding to the survey said the town should formulate plans and take actions which will provide moderate-income housing that will serves the progress of the town.

Coste said that one of the most surprising results of the survey was the attitude toward the Urban Development Corporation's (UDC) proposed project at Penfield and Nine Mile Point roads. Thirty-nine per cent said it was a step in the right direction; 48 per cent said it was not.

"I think this reflects both an absence of organized opposition to UDC and the fact that the Penfield voter recognizes what he can change and does not try to change what he can't," Coste said.

He said he was also surprised at the attitudes toward tax abatement for moderate-income housing. Sixty-five per cent said they disapproved of tax abatements.

However, when tax abatements are used to provide moderate-income housing for the elderly, 64 per cent said they approved.

Other results of the survey include:

Eighty-one per cent said they would be more favorable to an apartment house or town house if the residents paid their "fair share" of town services.

4/5/72.

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EXHIBIT N

Where You'll Find Crime in the City

By DICK COOPER

TU 3/9/72

More than half of the major crimes in Rochester last year occurred in less than a third of the city's neighborhoods, according to a Times-Union survey based on police statistics.

The high-crime neighborhoods cut a path from southwest to northeast, roughly along Chili Avenue and Main Street.

Major crimes, as defined by police and the FBI, are homicides, rapes, robberies, assaults, burglaries, larcenies and auto thefts.

The police department has 43 reporting areas. The first 14 accounted for 57 per cent of the major crimes. About 29 per cent of the crimes occurred in the next 14 areas, and 14 per cent were reported in the remaining 15 areas.

Police Commissioner John A. Mastrella said the number of crimes is directly related to the density of population in an area. More people mean more crime, he said.

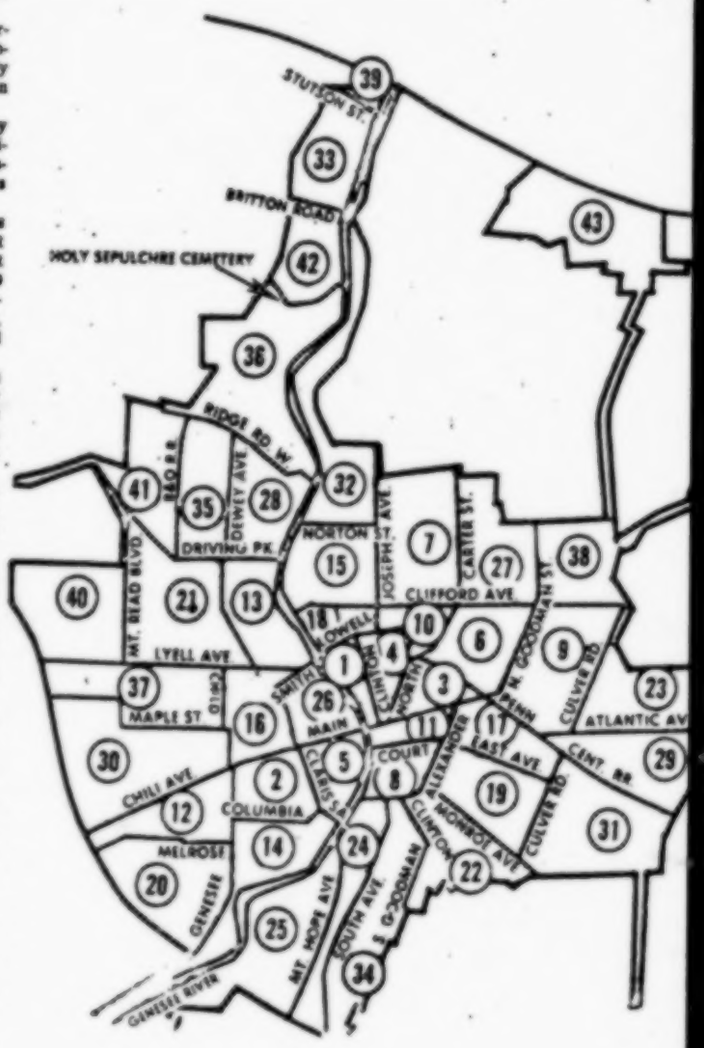
Mastrella said 4,346 arrests were made last year, accounting for 17.1 per cent of the major crimes.

The district with the highest rate of major crime—based on police reporting zones—is bounded by the Genesee River, Lowell Street, North Clinton Avenue and East Main Street. Police reported 1,229 major crimes there.

Mastrella said the high crime rate there is due mainly to the dense population, and a large number of shops and industires which are targets of thieves at night. Larcenies accounted for 1,000 of the total. A large number of these were shopliftings.

The safest area in the city was Durand-Eastman Park with 27 incidents there reported to police. Nineteen of the 27 were larcenies, mostly [illegible] for by bicycle

The Locations



Map shows police crime reporting zones, numbered from the highest crime area (1) to the lowest (43). Chart lists breakdown of major crimes in each area. Numbers on chart correspond with district numbers on the map. Chart listing "unknown" refers to fact that records do not show district in which particular crimes occurred.

614a

EXHIBIT N

The Breakdown

District	Homicide	Rape	Robbery	Assault	Burglary	Larceny	Stolen Vehicles	Total
1	3	2	54	311	277	1090	41	1728
2	4	5	52	424	466	315	61	1267
3	2	2	43	274	220	680	73	1103
4	1	3	30	306	206	422	83	1071
5	2	2	24	261	196	323	48	1056
6	2	4	44	217	216	346	70	898
7	0	1	30	210	137	497	63	913
8	2	2	48	194	148	480	42	907
9	0	1	24	186	133	504	48	896
10	4	1	23	209	202	290	54	885
11	0	1	31	102	94	598	58	850
12	1	1	30	163	122	383	28	846
13	0	1	16	148	108	428	74	775
14	3	3	20	207	244	207	46	730
15	0	4	26	136	135	303	42	646
16	0	1	18	165	143	300	48	675
17	1	0	13	115	109	350	24	612
18	2	1	21	151	129	215	31	550
19	0	3	1	68	76	408	21	537
20	1	0	14	78	143	230	18	484
21	0	0	5	80	83	307	22	497
22	1	1	10	86	78	298	15	489
23	0	0	16	99	47	312	16	490
24	0	1	8	100	85	223	27	444
25	0	0	2	34	34	349	22	441
26	0	0	10	53	92	238	45	438
27	0	1	9	89	91	244	16	419
28	0	2	7	53	80	206	22	390
29	1	0	4	48	82	210	14	345
30	0	1	8	43	71	190	18	341
31	0	1	2	22	55	235	12	327
32	0	1	7	30	30	211	16	295
33	0	1	14	136	28	134	2	315
34	1	0	8	48	70	178	18	323
35	0	0	1	35	36	189	12	273
36	0	0	1	23	37	182	14	258
37	0	0	1	20	50	153	10	234
38	0	1	6	39	25	116	7	194
39	0	0	0	23	23	84	7	137
40	0	0	1	10	18	52	16	97
41	0	0	0	13	6	64	0	83
42	0	0	1	17	22	46	1	87
43	0	2	1	4	1	19	0	27
UNKNOWN	0	1	1	34	1	124	5	166
Total	31	54	725	5,253	4,986	12,743	1,297	25,767

Shooting Case Trial Begins

ALBION — Trial of Sandra Nichols, 20, of Hemlock Ridge Road, Albion, and Robert Roy White, 19, of Root Road, Albion, both charged with first degree assault, opened in Orleans County Court yesterday before Judge J. Kenneth Serva and a jury of six men and six women.

Testimony was heard from witnesses for the plaintiff, Harvey Bonk of Clarendon, who was allegedly injured by a shotgun blast on Nov. 1 on the property of James Reamer of Upper Holley Road, Town of Clarendon. Testifying were Reamer, Laura White, wife of defendant White, and Morris Lanuca of Barker.

Plaintiff's testimony will be resumed at 10 a.m., today.

[illegible] Avenue and Genesee Street, was the worst neighborhood in the city for violent crimes. Four homicides, 8 rapes, 32 robberies were recorded there last year.

By contrast, no homicides, rapes or robberies were reported in areas 39 and 41, the only neighborhoods with no violent crimes reported.

Area 2 also led the city in burglaries with 466, 162 more than second-place area 14.

Mastrella said police have tried to combat the problems in high-crime areas by using more men and more intensive patrolling methods.

"We use monthly computer printouts to show us where the bad spots are and then concentrate on them," he said.

The police Tactical Unit is moved around the city to add more police to high crime areas, he said.

The Model Cities Neighborhood in the northeast, and the southwest sections of the city are patrolled by Coordinated Team Patrols. They operate closely to try to solve more crimes.

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

Title Omitted In Printing	* AFFIDAVIT * Civil Action No. 1972-42

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

ANN McNABB, being duly sworn according to law, deposes and says:

1. I am a private citizen residing at 1966 Penfield Road, Penfield, New York. I am a member of Metro-Act of Rochester, Inc. and a member of the Housing Task Force for Metro-Act of Rochester, Inc., one of the plaintiffs in the above noted lawsuit. I am also a resident of the Town of Penfield, one of the defendants in the above noted lawsuit. As a resident of Penfield, I

am a member and director of Penfield Better Homes, a non-profit corporation organized for the purpose of building low moderate income housing in the Town of Penfield to help alleviate what is a critical need for low and moderate income housing in the Rochester metropolitan area including the Town of Penfield. I make this affidavit in opposition to the motion of the defendants herein to dismiss this lawsuit.

2. I have been involved in Metro-Act since 1966. I have been involved with Penfield Better Homes since its organization in 1968. Penfield Better Homes is a charter member of the Housing Council in the Monroe County Area, Inc.; the Housing Council seeks with the consent of the present plaintiffs to become a plaintiff in this lawsuit. From

my participation in both of these organizations, I have an on going knowledge of the various attempts to bring low moderate income housing to the Town of Penfield. I have personal knowledge of the attempts of Penfield Better Homes to bring low, moderate income housing to the Town of Penfield. I have a knowledge of the proposals which have been submitted to the Town of Penfield from time to time to provide low and moderate income housing. I have attended and/or participated in many of the public meetings held in the Town of Penfield in connection with the providing of low and moderate income housing since 1968.

3. From my experience in efforts to bring low and moderate income housing construction to the Town of Penfield, I

can personally attest to the findings made by the Metropolitan Housing Committee in its study "Housing in Monroe County, New York" and the study entitled "Town Zoning and the Shortage of Moderate and Low Income Housing, Monroe County, New York" prepared by Rochester Bureau of Municipal Research, Inc., now the Rochester Center for Governmental Research, as being conclusions which are directly applicable to the Town of Penfield with respect to its policies and practices on zoning and with respect to its zoning ordinance. The Rochester Bureau of Municipal Research, Inc. (now Rochester Center for Governmental Research) in its study of April 1967 entitled "Town Zoning and the Shortage of Moderate and Low Income Housing, Monroe County, New York" found that town zoning

practices which mandate large lot sizes, large structure setbacks and low density occupation of the land, are a major contributing factor to the maintenance of the suburban towns of Rochester as enclaves for middle and high income residences only. (See Town Zoning and the Housing Shortage, Monroe County, pages 19 and 20, Exhibit A attached hereto and made a part hereof.) Further, the Metropolitan Housing Committee in its report "Housing in Monroe County, New York", Summary Report, April 1970, found that there was a critical need for the construction of low and moderate income housing in the suburban towns; that the necessary land available for the construction of low and moderate income housing was to be found in the

suburban towns.

> The complete rejection by suburban communities of all low and moderate income housing is testimony to the severity of the problem of prejudice involved. While many of the community groups and agencies - as well as individual citizens - have been working for open housing, their various efforts have proved insufficient. Racial prejudice and discrimination must be considered one of the most serious obstacles blocking the construction of low/moderate income housing where it is needed.
>
> (Summary Report, Housing in Monroe County, New York, page 10, Exhibit F of Robert J. Warth affidavit submitted herewith.)

4. As a private citizen I have been continually involved in advocating the construction of low and moderate income housing in the Town of Penfield since 1967 and have been a participant in the submission of proposals for the construction of low and moderate income housing in the Town of Penfield since 1969. The Penfield town board and planning

board have, through a combination of actions as more particularly set forth below, either 1) delayed action on proposals for inordinante periods of time, 2) denied approval to a proposal for the construction of low and moderate income housing for totally arbitrary reasons, 3) failed to provide necessary supporting services for low and moderate income housing, 4) amended the zoning ordinance to make nearly impossible the approval of low and moderate income housing proposals.

5. In May of 1970, the Town of Penfield was the first suburban Rochester community to adopt a planned unit development section of its zoning ordinance.

> The Planned Unit Development (PUD) concept involves planning on the level of a neighborhood or community rather than on the level of an individual lot or single use. Generally,

the PUD concept applies most effectively to project areas exceeding 100 acres in size. PUD objectives are comprehensive and involve viewing the components of a development as they relate to the needs of an entire town and, even, to a metropolitan area. A PUD achieves flexibility and efficiency in land use. A PUD conserves our limited land resources by stopping current patterns of urban sprawl development. A PUD provides a more convenient, conflict-free environment through the integration of commercial, recreational, educational, vocational and open space land uses with residential uses at neighborhood levels. A PUD includes a variety of residential types suitable for all age groups and income levels. In short, a PUD provides a living environment superior to that generally achievable under standard zoning and subdivision regulations.

Attached hereto and made a part hereof as Exhibit B is a copy of A Model Planned Unit Development Article for a Town Zoning Ordinance, Monroe County Planning Council and the Rochester Center for Governmental Research and Community Research, Inc., March 1970 (Third Draft).

Because high cost of land and construction in suburban towns makes it impossible or

extremely difficult for the developer to build low and moderate income housing, the clustering and use of higher density in the planned unit development allows the builder to reduce his costs and then rent or sell his property at relatively lower prices.

6. A review of the courses of the following planned unit development proposal is an index to the Town of Penfield's action to discourage and prevent low and moderate income housing in the Town of Penfield. A PUD plan was submitted by Mr. Joseph Audino for the Beacon Hill site in Penfield. In June 1970, this proposal was for the construction of 490 single and multi-family units including a commercial area. Attached hereto and made a part hereof as Exhibit C are the Planning Board Minutes,

June 9, 1970. The proposal was tabled by the planning board of Penfield. I understand that people who lived in neighboring areas objected to the apartments and the commercial area which was a part of the plan.

7. In August of 1970, Mr. Audino submitted a second, different plan for a PUD; the planning board, in September of 1970, denied this proposal (a more conventional proposal omiting the commercial area and not as diversified as the former in mixture of housing types) as a proposal not consistent with the best overall use of the area. This proposal consisted of the construction of 316 units. (See Planning Board Minutes attached hereto and made a part hereof as Exhibit D.)

8. An additional proposal for a planned unit development was submitted to the planning board by Mr. Audino for the Beacon Hill area in May of 1971. This proposal provided for the construction of 474 units. (See Planning Board Minutes attached hereto and made a part hereof as Exhibit E.) The Monroe County Planning Council approved the plan. (See Exhibit F attached hereto and made a part hereof.) The plan also was approved by the Town of Penfield's planning board with the proviso of reducing the density from that proposed. (See Exhibit G attached hereto and made a part hereof.) The number of units was reduced to 387 at a later stage. A description of the plan is attached hereto and made a part hereof as Exhibit H. At the time the Audino application to re-zone

the area from residential AA to PUD District (for the purpose of implementing the Beacon Hill 's PUD) was presented to the Penfield town board, the Penfield town, apparently responding to citizen pressure, held a hearing on amending the PUD ordinance. The Planned Unit Development ordinance was amended reducing the permitted density from 5.2 to 4 dwelling units per acre and further providing for every multiple dwelling unit or duplex unit there must be a single family dwelling. (See Exhibit I attached hereto and made a part hereof.)

9. The Beacon Hills PUD was passed by the Penfield town board with the condition that it conform to the density limitations in the PUD amendment. (See Exhibit J attached hereto and made a

part hereof.) In January of 1972, the Penfield town board repealed the re-zoning from AA to PUD of the Beacon Hills PUD and referred the matter to the Monroe County Planning Council for its recommendations. (See Exhibit K attached hereto and made part hereof.) The Monroe County Planning Council recommended disapproval for the re-zoning change. (See Exhibit L attached hereto and made a part hereof.)

10. According to Mr. Audino, the Beacon Hills PUD proposal is under tabled matters under consideration by the Planning Board pending results of court action taken by the neighbors around the Beacon Hill site and attempts to arrive at a compromise on a further lowering of the number of units. According to a recent news article, Exhibit M attached hereto and made a part hereof, a compromise on the number of units has now

been made.

11. Prior to the hearing on the amendment to the PUD ordinance, noted above, Penfield supervisor, Howard J. Frank, commented (see news articles attached as Exhibit I above) that because the planned unit development proposals submitted to the Town of Penfield had thus far included a high percentage of apartments, Penfield would need to amend the ordinance. Supervisor Frank was quoted in the newspaper as saying,"You've got problems when you have apartments and you're putting them in residential AA areas next to $40,000.00 homes." The amendment to the planned unit development ordinance in the Town of Penfield was passed over the strong opposition of builders interested in

constructing low and moderate income housing as well as the Monroe County Housing Council who described the proposed amendment as a "foolhardy attempt to impose even more stringent regulations." (See full statement of the Monroe County Housing Council and correspondence attached hereto and made a part hereof as Exhibit N.)

12.An application by Penfield Better Homes for the re-zoning of land in the Town of Penfield from A to Townhouse Dwelling District for the construction of low moderate income housing met with a pattern of frustration delay and ultimate denial. In September 1969, Penfield Better Homes Corp., of which I am a member and director, made a proposal to the Penfield Planning Board at a public

hearing for the construction of a project "Highland Circle", a complex of cooperative housing units which would be sold to persons earning approximately $5,000.00 to $8,000.00 a year under §236 of the Federal Housing Act of 1968. (A copy of the proposal is attached hereto and made a part hereof as Exhibit O.) This proposal was submitted to the Planning Board after comprehensive studies had been made by Penfield Better Homes Corp. on all aspects of the effect of this proposal on the surrounding community. (See attached Exhibits P through Q attached hereto and made a part hereof.) The background work on the proposal included the securing of a legal opinion by Penfield Better Homes from Robert M. Anderson, Esq., zoning expert at Syracuse University Law School, in anticipation of

the concern the Town of Penfield might have for rezoning and creating a "spot zoning" problem. (See Exhibit R attached hereto and made a part hereof.) A second public hearing was held in November 1969.

13. By resolution of the Penfield Planning Board, a copy attached hereto and made a part hereof as Exhibit S, the proposal of Penfield Better Homes Corp. was denied on the grounds that the 1) townhouse construction proposed would constitute an inappropriate use of the land and would not be consonant with existing character of the neighborhood, 2) the proposed use would create traffic problems within the area and 3) the proposed use would create problems of erosion during and after the construction. Data previously supplied to the Planning

Board directly contradicted the specific reasons for denial of the application - a survey by the County of Monroe, Director of Public Works, had revealed that increased traffic would not create any problem with respect to the existing traffic facilities in the area. Further, a thorough review of the proposed apartment site demonstrated that, following certain precautions, construction could well proceed in the area without any detrimental effect. The town board further denied an application by Penfield Better Homes for a public hearing to consider further the question of re-zoning for the Highland Circle Project. (See Exhibit T attached hereto and made a part hereof.)

14. To my knowledge, Penfield Better Homes is the only corporation to present a plan to the town involving a subsidy program in order to provide low moderate income housing for individual persons and particularly for families, with the exception of the recent, April 1972 UDC proposal.

15. In September of 1971, O'Brien Homes, Inc. submitted an application to the Penfield Planning Board for the re-zoning of 17.1 acres in Penfield from AA to apartment zoning of approximately 12 units per acre. On the basis of a County Planning Council recommendation, O'Brien Homes, Inc. had previously committed itself to the Town of Penfield to set aside a portion of land in a townhouse development O'Brien Homes had underway to

be used for low to moderate income housing.

16. O'Brien Homes outlined a proposal for a condominium development of apartment homes, including a Home Owners Association to guarantee exterior maintenance, consisting of 51 four-family buildings with garage for each family as an integral part of the building (two hundred and four units). A copy of this proposal is attached hereto and made a part hereof as Exhibit U.

17. The project was described as one to offer single people and small families of low income with accumulated funds and those of moderate income with limited funds for down payment the opportunity to enjoy the advantage of home ownership.

18. The O'Brien Homes proposal was denied by the Planning Board following the September hearing. (See Exhibit V attached hereto and made a part hereof.) There was further discussion by the Planning Board on March 27, 1972. (See Exhibit W attached hereto and made a part

hereof.) A modification of the original proposal was heard by the Planning Board on April 24, 1972. (See Exhibit X attached hereto and made a part hereof.) To date it remains under tabled items and has been referred to the Monroe County Planning Council for its recommendation.

19. At this time there are only two PUDs which have received the first stage of approval in Penfield. (The Audino PUD has been repealed. See above.) The first is known as the Standco PUD - approved in 1970 for re-zoning and before public concern focused on the PUD issue in Penfield. The second is known as the Rock Lake PUD (which was 4.67 units per acre) and was approved for re-zoning in September 1971 under the condition that it conform to the density limitation in the PUD ordinance, as amended. (See

Exhibit Y attached hereto and made a part hereof.) The PUD ordinance requires three stages of approval 1) re-zoning 2) preliminary site plan 3) final site plan. The Standco PUD is awaiting further public hearing. (See Exhibit Z attached hereto and made a part hereof.) Persons connected with the Rock Lake PUD say that at the present density they cannot build the type of community they had planned, so they are virtually giving up the idea for the moment.

20. Most recently has come the suggestion by the Town of Penfield board officials that sewer services are inadequate in the Town of Penfield for the increased density that would be involved in the construction of low and moderate income housing and therefore such a proposal must be denied. In March of 1972, the Penfield

planning board announced that it was the town's new policy not to allow any more building in Sewer District #3 in Penfield because the sewer services in that district were now operating at 1 1/2 times its capacity.

21. According to minutes of the planning board attached hereto and made a part hereof as Exhibit AA, an application of Philip Prinzi for Zuric Development Corporation, Lyell Avenue, Rochester, New York to re-zone from residential AA to residential A, sections 3 and 4 of Independence Ridge subdivision in order to build smaller homes on lots of the same size as originally planned was denied by the planning board. A representative of Domus Homes which planned to construct the homes, argued to the planning board that there was a great need and a

market for homes in the $25,000.00 to $30,000.00 range.

Additionally, from minutes of planning board in March of 1972, the Penfield planning board denied the application of Angelo Castronova, 1766 Empire Blvd., Rochester, New York for re-zoning of two acres of land on the west side of Creek Street from commercial to apartment house and multiple dwelling for the purpose of constructing 24 apartment units.

The Beacon Hills Planned Unit Development proposed by developer Audino, referred to above in paragraphs 6 through 10 is located in Penfield Sewer District #3 on which the planning board of Penfield now imposes a complete construction moratorium. Mr. Audino to cope with this situation,

is planning to pump sewer into another Penfield sewer district. The Housing Task Force of the Town of Penfield by its Report of Penfield Housing Task Force on Moderate Income Housing, June 5, 1972, has acknowledged the insufficiency of present sewer facilities in view of its proposals for moderate income housing construction in Penfield.

> In contrast the sanitary sewer situation is too complicated to be dealt with effectively within the scope of the activities of this Task Force. At present there is insufficient capacity to handle 2000 additional dwelling units in Penfield, regardless of their location or cost. In fact, certain approved developments cannot start construction until portions of the sanitary sewer problem are resolved. The Town Board is aware of these problems and is evaluating solutions. This Task Force assumes that satisfactory solutions will be identified and that the appropriate action will be taken to permit the normal growth of Penfield as well as the construction of the recommended moderate income housing.

22. As is illustrated above, the town board of Penfield, and the planning board of Penfield have either individually and/or in concert, directly or indirectly in the past, and continuing to date, frustrated attempts at the building of and prevented opportunities for low and moderate income housing units in the Town of Penfield, amended the PUD ordinance so as to make more difficult the availability of low and moderate income housing through planned unit development in Penfield and have failed or refused to re-zone as might be required for the construction of low and moderate income housing in the Town of Penfield. Such policies and practices have the effect of specifically excluding low and moderate income persons, blacks, Spanish-

AFFIDAVIT, ANN McNABB

Americans, and other minorities from living in the Town of Penfield.

/s/ Ann McNabb
ANN McNABB

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TOWN ZONING AND THE HOUSING SHORTAGE

ROCHESTER BUREAU OF
MUNICIPAL RESEARCH,
INC.
A CITIZEN AGENCY

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TOWN ZONING AND THE SHORTAGE OF MODERATE AND LOW INCOME HOUSING
Monroe County, New York

A Study Memorandum Prepared for the
CIVIC DEVELOPMENT COUNCIL
of the Rochester Chamber of Commerce

by

Friedrich J. Grasberger, Principal Research Analyst

ROCHESTER BUREAU OF MUNICIPAL RESEARCH, INC.
37 South Washington Street
Rochester, New York
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April, 1967

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Introduction

Within the last few years the Rochester area has experienced a phase of unprecedented economic growth. Total employment figures, which increased at the average annual rate of 3,000 during the 'fifties, increased almost 12,000 annually between 1960 and 1966. In fact, during 1966 the Rochester area experienced its largest one-year increase in civilian employment on record--almost 20,000 new employees were added.[1] The rapid expansion of employment was accompanied by equally impressive increases in industrial production and per capita

[1] New York State Department of Labor: Manpower Trends, 1950-1966.

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income. The dollar value added by manufacture per employee in Monroe County rose from about $10,000 in 1958 to almost $15,000 in 1963 when all other metropolitan areas of New York State including New York City were still hovering around the $10,000 level.[1] The 1960-1964 growth in per capita income in Monroe County was almost twice that of its neighboring metropolitan counties of Erie and Onondaga.[2]

In the last year or two, however, this exciting record of economic expansion has been marred by the realization that commerce and industry are

[1] U.S. Census of Manufactures: New York, preliminary report.

[2] New York State Department of Commerce: Personal Income in Counties of New York State, 1960-64.

running into severe difficulties to recruit the manpower necessary for the continuation of their growth. Recent surveys of Rochester industry point to a current manpower shortage of more than 10,000. Considering the extremely low current rate of unemployment (slightly more than one percent) these manpower needs must be met primarily from inmigration. However, repeated efforts by local industry to attract new manpower into this community have met with very little success because of a serious lack of low and moderate income housing in Monroe County.

This housing shortage is rapidly assuming proportions that pose a serious threat to the future growth and the economic as well as social health of the Rochester community. Low and moderate

income earners are crowding the older sections of the city, the aged are unable to exchange their dwellings for smaller homes or reasonable rental units requiring less maintenance efforts, and the community's youth entering into the manpower market are finding it increasingly difficult to remain in the Rochester area because of the lack of suitable housing.

If this community is to continue to grow and prosper, immediate attention must be focused on the problem and coordinated efforts directed towards its solution must be undertaken without delay.

Interestingly enough, the severe housing shortage has arisen at a time when the construction of new homes and apartments has reached record levels in Monroe

County. During the six years from 1960 through 1965 in the county's towns alone the construction of 26,852 new dwelling units was authorized by building permits, 7,221 of which were apartments.[1] Unfortunately, however, almost all of this construction occurred in price and rental categories which are beyond the means of the moderate and low income earner.

Traditionally the blame for the high cost of housing has been placed on rapidly rising construction costs and on the booming cost of land. Increasing attention in recent months, however, has been directed towards a third cause--

[1]Monroe County Planning Council: Sixth Annual Building Permit and Population Survey, Monroe County, New York, June, 1966.

zoning. It is contended by builders that the towns' zoning ordinances prevent the construction of needed moderate and low income housing by imposing excessive requirements for lots and buildings.

This study memorandum will examine the extent of the housing shortage, analyze its causes, and develop recommendations to alleviate the problem.

The Scope of the Problem

In order to determine the extent of the low and moderate income housing shortage it is necessary to (1) define the term low and moderate income, (2) measure the demand for such housing, and (3) measure its supply.

Definition of Low and Moderate Income Housing

The average weekly earnings of

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Rochester production workers, including pay for overtime, amounted to $120.96 in 1965[1] or, converted to an annual figure, to $6,290 per year. Since a significant proportion of production workers are single individuals who normally are considered more a part of the demand for rental dwellings, a better income criterion for the potential buyers of low and moderate income houses is the average or median income for families. Since most of the families constituting the demand for moderate and low income housing are in relatively low age brackets, the estimated 1965 median income given

[1]New York State Department of Labor: Employment Review, New York Manpower Profile, 1965 in Perspective, May, 1966.

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for families with family heads under thirty-five years of age and children under six should serve as an appropriate definition of "moderate income" in this context. The median income for such families is $7,560 per year in Monroe County.[1]

Experience indicates that the average family can afford to purchase a home costing the equivalent of twice its annual income.[2] Another commonly used yardstick suggests that an individual's or a family's monthly expenditures on housing should not exceed one week's income. Thus, for the purposes of this

[1]Estimate based on 1960 U.S. Census figure and per capita income growth as reported by the New York State Department of Commerce.

[2]This ratio would rise with an increasing amount of cash down payment.

study, moderate and low income housing will be defined as purchasable homes costing in the neighborhood of $15,000 or less and as rental units with monthly gross rents of $140 or less.

The Demand for Low and Moderate Income Housing

The aggregate demand for additional housing of all kinds in the Rochester area consists of (1) internal population growth, i.e. young, single adults and newly married couples leaving their parental homes, and (2) single and married in-migrants moving in from outside the county.

It is difficult to estimate from the available data even the approximate numbers of potential home renters and buyers entering the market each year. It is possible, however, to indicate the

relative changes on the housing demand side which have occurred since 1960. As a result of the rapid increases in the Monroe County birth rate beginning in 1942, the 1960's are, and will be experiencing the entrance of unprecedented numbers of young adults into the home rental and buying markets. As shown in Table 1 on the following page, the younger age groups preceding age group 25-29 exceed the latter by 12.4%, 41.7%, and 63.4% respectively.[1]

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[1]Death rates for the above age groups are uniformly low and will not affect the validity of the comparison.

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TABLE 1

SELECTED AGE GROUPS, MONROE COUNTY, 1960 and 1964

Age Group	Number of Persons 1960	1964	1964 Age Group 25-29 = 100%
25-29	34,665	35,045	100.0%
20-24	30,847	39,417	112.4%
15-19	37,549	49,670	141.7%
10-14	50,888	57,278	163.4%

Sources: 1960 U.S. Census of Population
1964 Special Census, Monroe County, New York

On the basis of these data it can be safely concluded that the annual number of new family formations which ran at a level of approximately 3,500[1] in 1960 was at least ten percent higher in the early 'sixties and will in all liklihood reach a level of almost 5,000 a year in the late 'sixties. Corresponding relative increases have taken and will take place in the number of young single adults looking for their own

[1]New York State Department of Health, Vital Statistics Review, 1960.

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homes. Due to the very young median ages of the brides (21 years)[1] and grooms (23 years)[1], it can be assumed that the vast majority of them will be looking for either low or moderate income housing. On the other hand, the young single adults will probably be in the market for mostly low income housing since, unlike some young couples, they are dependent on only one person's income.

The net in-migration component of housing demand has also been increasing steadily. According to data from the Monroe County Planning Council annual net in-migration into Monroe County has risen from about 3,000 in the 'fifties

[1]New York State Department of Health, Vital Statistics Review, 1960.

to about 5,000 in the middle 'sixties. Previous studies of in-migration patterns have revealed that the majority of the incoming adults are in the 20-35 year age group. For this reason they can be expected to add considerably to the demand for low and moderate income housing.

Supply of Low and Moderate Income Housing

Net additions to the supply of low and moderate income housing have failed completely to keep pace with the growth of the demand for such dwellings. A 1965 survey of rental vacancies conducted by the Rochester Bureau of Municipal Research indicated that the number of low and moderate rental vacancies had dropped drastically below the 1960 level. No data are available reflecting changes in the supply of rental housing in the City of

Rochester. In the towns of Monroe County, 7,221 multiple housing units were authorized for construction between 1960 and 1965[1] virtually all of which rent at levels considerably above $140 per month.

A more precise but equally discouraging picture is offered by the following data depicting the annual supplies of low and moderate income homes which were purchased between 1960 and 1965.

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[1]Monroe County Planning Council: op.cit.

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TABLE 2

NEW HOUSES COMPLETED AND SOLD IN MONROE COUNTY, 1960-1965

	Homes Selling For			
	$15,000 or less		$15,001-20,000	
	#	% of Total	#	% of Total
1960	61	4.3	697	49.3
1961	20	1.2	670	39.0
1962	40	2.0	837	42.5
1963	4	.4	842	34.6
1964	13	.5	793	27.6
1965	3	.1	604	20.0

Source: First Federal Savings and Loan Association: Annual Surveys of New Construction in the Rochester Metropolitan Area, 1960-1965.

As shown in Table 2, new houses costing $15,000 or less have virtually disappeared from the market. New homes in the $15,000-20,000 class which in 1960 accounted for almost fifty percent of all new homes sold have dropped drastically to represent a mere twenty percent of the market in 1965.

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Table 3 shows that the sales of existing homes have also failed to rise sufficiently to keep pace with the growth in demand. Total 1965 sales of all existing homes under $20,000 were only thirty -seven units above the 1960 total. A closer inspection of the "$15,000 or less" data, furthermore, reveals that the existing homes in this category sold in the towns of Monroe County actually decreased from 758 units in 1961 to 407 units in 1965. The compensating growth in this price class, therefore, occurred within the City of Rochester. But unfortunately many of these units are located in relatively undesirable neighborhoods and are consequently unacceptable to a large portion of the demand sector.

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TABLE 3

EXISTING HOMES SOLD IN MONROE COUNTY, 1960-1965

	Existing Homes Selling for $15,000 or less		Existing Homes Selling for $15,001-20,000	
	#	% of Total	#	% of total
1960	1,756	53.4	935	28.4
1961	1,761	52.8	979	29.4
1962	1,756	48.9	1,132	31.5
1963	1,717	47.3	1,106	30.5
1964	1,629	45.4	1,080	30.0
1965	1,634	43.3	1,094	29.0

Source: See Table 2

Reasons for the High Cost of Housing

The primary determinants of the cost of a new home are the size and quality of the structure and the size and location of the lot. Both construction costs and land cost have risen continually for several decades now particularly in urban areas, and indications are that this trend will continue to extend into the future. But what about personal income?

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Has personal income not also grown to maintain an equilibrium between the cost of housing and the ability to purchase a new home?

TABLE 4

GROWTH OF BUILDING COSTS AND PER CAPITA INCOME

	Average Building Cost Index(United States)	Per Capita Income Index (Monroe County)
1956	100.0	100.0
1957	103.6	102.5
1958	106.9	100.5
1959	111.6	104.8
1960	114.0	107.8
1961	115.8	108.0
1962	118.2	112.9
1963	121.0	116.7
1964	124.7	125.6
1965	127.7	135.6

Sources: 1. Engineering News Record, 1957-1966.
2. New York State Department of Commerce, Personal Income in Counties of New York State, 1950-1965.

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Table 4 above reveals that per capita personal income in Monroe County has kept pace with the increases in average building costs over the past ten years. Unless evidence can be introduced showing that average building costs in Monroe County have risen significantly faster than the national average the blame for the shortage of moderate and low income housing cannot be placed on the rising costs of construction.

Unfortunately no precise statistics[1] are available which might reflect the increases in the cost of land in Monroe County. It is safe to assert, however, that the cost of land in and immediately

[1]A National Association of Home Builders' survey published in the January issue of the Rochester Home Builders Monthly showed a 1960-1964 price increase per lot of 31.3% in Rochester. However, the survey neither defined"Rochester" nor the type and location of lots surveyed.

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adjacent to urbanized areas has risen much faster than both construction costs and personal income. Ten years ago the per acre cost of residentially zoned land was selling in the hundreds of dollars, today builders talk in terms of thousands of dollars per acre of raw land.

> "While every segment of our economy has experienced rising prices, the pronounced increase in vacant land costs throughout the state has far exceeded the 'norm' established in these other segments. In the last decade average land prices have more than tripled and some urban and subruban land has skyrocketed as much as 2,000 percent. . ."[1]

In addition to the growth of the costs of raw land builders are being faced by more and more demands for investment

[1]New York State Home Builders' Association: 1966-67 Housing Report, p. 14.

in community facilities such as sanitary and storm sewers, sewage treatment plants, water lines, streets, curbs, and park and recreation areas. The expenses for these investments are added to the cost of land to the home buyer who then must finance them with prevailing mortgage interest rates.

> "These costs, plus the land cost, now represent approximately twenty-five percent of the purchase price of the house. In the 1940's the average figure was 8-9 percent of the cost of the house. . . "[1]

Thus, rising land costs have been a significant factor contributing to the shortage of low and moderate income housing. Of course, land costs could be

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[1]Ibid.

reduced by building at farther distances from urban centers, but increased commuting expenses and the scarcity or lack of municipal services would tend to offset the increased price attractiveness of such homes.

In view of these rising per unit costs and the increased demand, it would seem logical that builders would attempt to satisfy this demand for low and moderate income housing by building more instead of less or the smaller homes on smaller lots, thereby counteracting the cost trends discussed above. Probably the major deterrent to this solution is ZONING.

Residential Zoning in the Towns of Monroe County

The general city, village and town laws of the state provide that any city,

village or town may adopt zoning regulations. Under the law municipalities are empowered to regulate and restrict the size and use of buildings, structures, and land.[1] Within the context of this study we may ignore city and village zoning since very little vacant land is left in these urban centers which can be used for residential development. The primary concern is with town zoning, the zoning for the vast areas of vacant land surrounding the urban cores and urbanized rings. To provide a basis for evaluation of zoning practices, the following sections contain: (1) a review of current expert opinion on optimum densities for residential development in suburban

[1]New York State Department of Commerce: Local Planning and Zoning, 1966 Edition.

areas; (2) a description of prevailing zoning practices in the towns of Monroe County; and (3) an analysis of the reasons for these practices.

Optimum Average Residential Densities

Planning experts are in close agreement on the optimum ranges of housing and population densities for various types of communities and different types of structures. The following densities are considered optimal in terms of neighborhood planning, cost of construction, market absorption and long-term values:

1. According to the American Public Health Association[1] a desirable average residential density consists of 5 dwelling units per acre with a

[1]American Public Health Association: Planning the Neighborhood, Standards for Healthful Housing, 1943.

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maximum of 7 per acre. The recommended minimum lot size is 6,000 square feet, the minimum structural square footage per family is 870.

2. Professor Kevin Lynch of M.I.T. cites a standard density of five single dwellings per acre and a recommended size of the structure equal to 20 percent of the lot.[1]

3. The optimum residential density envisioned for the planned community of Reston, Virginia is fourteen persons per acre which roughly corresponds to four families per acre.[2]

4. The Ubran Land Institute in "New Approaches to Residential Land Development" describes many new community developments with density objectives ranging from four dwellings per acre in suburban areas to seven families in areas closer to the urban center.[3]

The most concise treatment of optimum

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[1]Kevin Lynch: Site Planning, the M.I.T. Press, 1962, p. 145.

[2]R.E. Simon: Planning a New Town-Reston, Virginia, American Society of Planning Officers, 1964.

[3]Urban Land Institute: New Approaches to Residential Land Development, Technical Bulletin 40, January, 1961.

EXHIBIT A

residential density has recently been prepared by the Federal Housing Administration.[1] Its optimum range for one story detached dwellings consists of a minimum of 4,356 square feet and a maximum of 7,840 square feet of floor area per gross acre. For one story structures averaging 1,000 square feet the resulting optimum density range would thus be 4.4 -7.8 dwellings per acre, for one story structures averaging 1,500 square feet the range would be 2.9 - 5.2. Its optimum range for two story detached dwellings is 4,356 - 8,712 square feet of floor area per gross acre which is equivalent to a density range of 3.6 - 7.3 for dwellings

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[1]F.H.A.: Land Use Intensity, Land Planning Bulletin No. 7, 1965.

of 1,200 square feet or 2.7 - 5.4 for dwellings averaging 1,600 square feet of floor area. Converted to net acreage requirements the above density ranges would be equivalent to lot sizes ranging from 6,500 square feet to 13,000 square feet.

Residential Zoning Practices in the Towns of Monroe County

The zoning ordinances in the towns of Monroe County have traditionally restricted residential land use to one family houses. Some of the more urbanized towns have recently provided some land for multiple dwelling but virtually all of the apartments constructed are for high income families only. Most of the land zoned for residential purposes still consists of large areas in separate zoning categories, each catetory restricting

land use by clearly defined minimum sizes of lots and structures. As a result the residential patterns show clearly delineated economic stratifications.

Areas in which minimum standards governing the size of lots and structures are high are primarily occupied by high income families. Areas with lower minimum standards have attracted proportionately less affluent segments of the population. This type of zoning and the accompanying economic stratification of the residents has led to a high degree of uniformity of developments within the same zoning areas and of homes within the same developments. The acceptance of such uniformity in turn has acted as a strong impediment to zoning for smaller lots and homes because

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while uniformity appears proper in the case of middle and high income houses it is not acceptable for the moderate and low income homes. In spite of ample evidence to the contrary, particularly in the towns of Brighton and Irondequoit, small lots and homes are popularly viewed as unsightly and undesirable, and any action to relax zoning to permit such lots and homes in large areas would be most likely considered at attempt to create large scale slums in the suburbs.

As shown in Table 5 below, the average minimum lot sizes in the various zoning categories in the towns of Monroe County, with the exception of Irondequoit, are far above the optimum standards discussed in the preceding section.

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TABLE 5

MINIMUM PERMISSIBLE SIZES FOR RESIDENTIAL LOTS AND TWO STORY STRUCTURES
TOWNS OF MONROE COUNTY, 1966

	Minimum lot area (Square feet)	Minimum ground floor area for 2-story residences (Square feet)
Greece	7,200-20,000	600-1,200
Gates	8,000-15,000	625- 875
Irondequoit	9,600- 9,600	500- 660
Brighton	11,250-23,125	500- 900
Henrietta	12,000-20,000	480-1,000
Chili	12,000-20,000	650- 700
Parma	14,450-20,000	600- 800
Wheatland	15,000-30,000	500- 650
Penfield	15,000-20,000	650- 750
Clarkson	15,000-20,000	640- 840
Hamlin	15,000-15,000	768- 768
Perinton	15,750-20,000	650- 925
Pittsford	16,000-25,000	750-1,000
Ogden	17,500-20,000	660- 768
Webster	18,000-28,125	660- 864
Sweden	20,000-20,000	576- 576
Riga	20,000-20,000	884- 884
Rush	30,000-30,000	575- 750
Mendon	30,000-30,000	800- 800

Source: Zoning Ordinances, Towns of Monroe County, 1966.

Table 5 also indicates wide disparities in the minimum requirements regarding sizes of residential lots and structures in the nineteen towns of Monroe County. The minimum lot sizes in the towns of Rush and Mendon are more than four times as large as the minimum lot size in the town of Greece. The minimum ground floor area for two story structures in the town of Riga is almost twice as large as that in the town of Henrietta.

Only six of the nineteen towns provide for lot sizes within the optimum range and of these six only Irondequoit keeps the minima for all single residential zoning categories within this range.

The minimum ground floor areas for two story structures is in all cases higher than the minimum of 435 square feet

recommended by the American Public Health Association (see page 9), although the four towns with minima of 500 square feet or less are very close to this standard. The remaining fifteen towns, however, exceed the standard by 32 to 103 percent.

Returning to the crucial issue of permissable lot size, Table 5 shows that six of Monroe County's 19 towns do have zoning provisions permitting lots of size deemed optimal by planners. The existence of a zoning ordinance providing for such land use, however, is no automatic guarantee that a sufficient supply of such land is available in the proper locations. In fact, the zoning classification may simply encompass an area which is already filled by the permitted uses or it may be located in an area

unsuited for such use.

A comprehensive land use inventory for Monroe County compiled in 1963 by the New York State Department of Public Works as part of its Metropolitan Transportation Study demonstrated this lack of available land in the smaller lot categories. Using a computer print-out supplied by the department which listed all parcels of vacant land zoned for residential use, a tabulation was made of vacant parcels twenty acres[1] or larger located in the six towns with the optimal minimum zoning provisions. This showed that only a few of the optimum type parcels were still vacant in 1963 in the towns of Chili, Henrietta and Brighton,

[1]Twenty acres were considered the minimum size for efficient tract development.

and most of these were situated in undesirable or unsuitable locations (e.g., around the airport, along the river, in areas of hilly land.) A relatively large number of vacant parcels in the town of Irondequoit are located in areas of steep slopes in the vicinity of Durand Eastman Park. According to the Monroe County Planning Council:

> "Development possibilities (in these areas)are extremely restricted. Much of these areas should remain permanently in open uses, and where urban development does take place it should be on a very low density basis to minimize problems of site development."[1]

This leaves only the towns of Gates and Greece with significant supplies of vacant land in optimal density categories. But even in these towns natural character-

[1]Monroe County Planning Council: Background for Planning, December 1962, p.9.

istics make efficient development of many of these parcels impossible:

> "Along the shore of Lake Ontario the land is almost continuously flat or marshy.
>
> "Areas with problems of intermeidate degree . . . occur most extensively in a band extending along the north side of Ridge Road where shallow soils and flat terrain combine to cause difficulties.
>
> "South of (the area between Ridge Road and Spencerport Road) none of the wet lands or flat lands . . . are very extensive, but interspersed as they are among areas of sloping ground, they will have a retarding effect upon the overall development of this part of the county."[1]

Two additional factors to be considered in this context are: (1) the available supply of vacant land of optimum density zoning has most certainly

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[1]Ibid., pp. 11,12.

shrunk even further since 1963 when the land use analysis was conducted, and (2) the fact that land is zoned for a certain type of residential use does not necessarily mean the present owners will make it available for such use.

It is clear that a serious imbalance exists between the demand for low cost homes and the willingness of the towns to provide a zoning framework which would permit their construction. In fact, while the demand has been increasing, seven of the nineteen towns have raised their minimum requirements for lot and/or dwelling sizes over the past three years! Town zoning is running on a collision course with the needs of the metropolitan community.

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Reasons for Low Density Zoning

So far it has been established that the density ranges and structural sizes mandated by the zoning ordinances in the towns of Monroe County are considerably above those recommended by planning experts, and it has been shown that even in the few towns which have allocated some land to zoning categories fully within the optimum density range the supply of such land is dwindling or unusable due to locational disadvantages. Thus, the question arises: Why are the towns so unresponsive to the demonstrated needs of the county as a whole? There are three major reasons for this unresponsiveness which can be categorized under the headings of aesthetics, economics, and desire for exclusiveness.

EXHIBIT A

The first of these reasons, aesthetics, has already been discussed in the preceding section. It derives from the absence of mixed and flexible residential zoning. Each zoning category consists of large plots of land upon which a rigid stamp of uniformity is impressed by prevailing zoning restrictions. While this type of uniformity appears to be desirable to the towns for medium and high cost housing it seems to be unacceptable for low cost housing.

The economic reasons for low density zoning are perhaps more significant than any of the others. Fiscal pressures on local government have evoked increasing concern with land use and its fiscal consequences. Today the so-called "fiscal zoning game" is played by virtually all

developing suburbs. Its rules are simply to permit only those types of land uses which add enough assessed valuation to the tax base to finance the municipal services required. In the case of dwellings the paramount consideration revolves around school taxes. School taxes in the towns of Monroe County account for the lion's share of the total fiscal burden. Since experience shows that low income families tend to have more children than high income families the addition of low cost housing results in an incremental expense for public education which is much larger than the incremental yield of the expansion of the tax base.

To illustrate the severity of this problem, the school district of West Irondequoit would presently require an addition of $32,464 in full value to its

tax base to fully finance the additional property tax levy required for <u>one</u> additional public school pupil! The Pittsford School District, to cite another example, would need a full value increment of $38,280 for each additional pupil!

Thus, it is quite apparent why the suburban towns are attempting to maximize their tax base by reserving their land for primarily high value uses.

> "There was a county in northern New Jersey which acquired a very large industrial plant. It promptly rezoned the rest of its land as far as possible to one acre lot zoning. In other words, the community was saying 'now that we have the plant, we would like to house the executives of the plant, but the workers with their children may go somewhere else with their lower cost houses'. . ."[1]

The only way to stop the fiscal zoning game and thereby eliminate a primary motive for low density, high value zoning is to

[1] Jerome P.Pickard: Opportunities and Problems, American Society of Planning Officials, 1966.

solve the fiscal needs of communities on something more than a small local unit basis. The most obvious approach to the solution of this problem is to find a way in which to decrease reliance on property taxation for the support of the broader governmental services including public education, health welfare, etc.

> ". . . property taxation is not a fair source of revenue for the support of services benefiting the entire urban area. Some other tax source, which reaches all the people (benefiting from these services) would be more equitable."[1]

Some degree of equalization of educational cost burdens has already been attained through state aid for education and the allocation of a sizable share of the county sales tax to school districts. Even greater equalization is necessary, however, to deprive the fiscal zoning game of one of

[1] University of North Carolina, Institute of Government, Greensboro Suburban Analysis.

its prime incentives.

The third reason for low density zoning stems from town residents' desire for exclusiveness. Many suburban residents formerly lived in cities. Their move to suburban surroundings was often motivated by the desire to leave a deteriorating environment. To prevent the recurrence of such deterioration they developed into avid advocates of "exclusivity zoning." Insisting on their inherent rights to preserve and even upgrade their chosen surroundings, they have denied the rights of others by molding their zoning ordinances to make it financially impossible for them to live in similarly desirable areas. Thus it happens that in some suburban towns of Monroe County individuals working as school teachers, production workers, etc. are unable to make their homes in the towns in which they work.

This third reason is probably the least justifiable argument in support of restrictive zoning, particularly since most new building would take place in areas which are as yet completely undeveloped and would, therefore, not affect existing residential developments.

Conclusion

It has been demonstrated in the preceding analysis that the demand for moderate and low income housing, of both rental and purchasable units, is growing at a rapid rate. It has also been shown that the supply of such housing has failed to keep pace with the growth in demand. The resulting gap between supply and demand has been widening each year and now poses a serious threat to the economic health of this community. It is stymieing industry's efforts to attract needed manpower, it is

crowding a large portion of low income families into city slums, it inflates the price of available units and land, it prevents older couples from purchasing smaller homes requiring a minimum of maintenance efforts, and it may soon make it impossible for many young newly married Rochester couples to find decent dwellings so that they may remain in this community.

The basic reasons for the lack of supply have been identified as rising costs of construction, soaring costs of land and town zoning practices.

Although unit costs of construction appear not to have risen faster than per capita income and should, therefore, not be viewed as a major cause of the housing shortage, a breakthrough in the technology of home and apartment construction could be

a significant factor in reducing the gap between demand and supply.

Land costs must assume a large share of the blame for the shortage of moderate and low income housing and should be a principal target of any corrective action. While the Rochester area has vast reserves of vacant acreage, much of this acreage is controlled by interests withholding it from the market and thereby stimulating the soaring growth of land prices. To solve this problem a new approach to the taxation of vacant land may have to be developed which would make it substantially less profitable for land speculators to limit the supply of land.

Town zoning which could have mitigated the impact of rising unit costs of land and construction by providing an adequate supply

of reasonable sized lots and structures has, instead, compounded the rise in prices by mandating even larger lots and larger homes than even before. Proper remedial action for the situation must include an attack on the basic causes responsible for current zoning practices.

The economic causes, consisting primarily of the tax advantages which are the prize of a well-played fiscal zoning game, can only be removed by county and state legislative action. Such action should be aimed at broadening the property tax base for the financing of the costs of public education beyond the present tax district boundaries and at greater emphases on revenue sources which are not related to real property.

Town residents' opposition to less

restrictive zoning for reasons of aesthetics and exclusiveness can only be overcome through more imaginative zoning. New communities now being planned and constructed in many parts of this nation offer convincing proof that combinations of low and high density land use can result in both aesthetically attractive and marketable residential developments. A first and very promising step in this direction is contained in the proposed zoning ordinance for the town of Pittsford. The Monroe County Planning Council which prepared this ordinance suggested that average density development be permitted in the town for the purpose of allowing:

> "Variation in lot size in areas proposed for development . . . to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical

> provision of streets and utilities, and to preserve the natural and scenic qualities of open space . . ."[1]

The major impetus for a change in the towns' current zoning practices must come from two sources, the Monroe County Planning Council and the informed citizens of this community.

The county planning body should study and quantify the need for the various types of land uses required by this growing community. It should be given the power, by state law, to determine which general areas in the county are best suited to accomodate the needed land uses and to advise and assist the towns in the implementation of these broad land use mandates into actual zoning. This is an extremely important responsibility which requires the utmost in ingenuity, imagination and good judgement. It is not

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1 Monroe County Planning Council: Proposed Zoning Ordinance, Town of Pittsford, 1965.

intended to deprive towns of their zoning powers but rather to assign to each town a share of suburbia's responsibility for land use benefiting the entire metropolitan area. It is the task of the individual towns to discharge this responsibility in a manner which adds rather than detracts from the desirability of the town as a community.

An informed citizenry can be of invaluable help in bringing town zoning up to date. A growing number of community leaders are becoming aware of the potentially disastrous consequences of our housing shortage and its relationship to town zoning. They realize that the welfare of the well-to-do is closely intertwined with that of the moderate and low income earner, that the City of Rochester is limited in its ability to provide additional housing for this latter

group due to lack of land, and that, consequently, the continued growth and prosperity of the entire metropolitan community hinges on the towns' willingness to take steps towards a solution of the grave problem. It is this type of citizen who must provide local leadership and convince his elected governmental officials and the members of his planning board that the time has come to create a more flexible zoning framework which, while protecting existing development, permits the development of available vacant land to serve the needs not only of a favored segment of the population but of all citizens of our community.

If such leadership is not provided by the planning council and the citizenry, this community is inviting either economic stagnation or possibly corrective action by the federal government or the courts. This

latter possibility is not as remote as it sounds as these concluding quotations from a recent court decision show:

> "Zoning is a means by which a governmental body can plan for the future--it may not be used as a means to deny the future. . .
>
> "It is clear . . . that the general welfare is not fostered or promoted by a zoning ordinance designed to be exclusive and exclusionary.
>
> "A zoning ordinance whose primary purpose is to prevent the entrance of newcomers in order to avoid future burdens, economic and otherwise, upon the administration of public services and facilities cannot be held valid . . ."[1]

[1] National Land and Investment Company and Dorothy M.Ennis vs. Harold E.Kohn and Edith Kohn, his wife, Intervenors, Appellants. Appeal of BOARD OF ADJUSTMENT OF EASTTOWN TOWNSHIP. Supreme Court of Pennsylvania, November 9, 1965, Rehearings Denied January 17, 1966.

P. U. D.

A MODEL PLANNED UNIT DEVELOPMENT ARTICLE FOR A TOWN ZONING ORDINANCE

MONROE COUNTY PLANNING COUNCIL

ROCHESTER CENTER FOR GOVERNMENTAL AND COMMUNITY RESEARCH, INC.

March, 1970

EXHIBIT B

A MODEL PLANNED UNIT DEVELOPMENT (PUD) ARTICLE FOR A TOWN ZONING ORDINANCE

Prepared by the

MONROD COUNTY PLANNING COUNCIL

and the

ROCHESTER CENTER FOR GOVERNMENTAL AND COMMUNITY RESEARCH, INC

March, 1970

(Third Draft)

EXHIBIT B

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INTRODUCTION

The Planned Unit Development (PUD) concept involves planning on the level of a neighborhood community rather than on the level of an individual lot or single use. Generally, the PUD concept applies most effectively to project areas exceeding 100 acres in size. PUD objectives are comprehensive and involve viewing the components of a development as they relate to the needs of an entire town and, even, to a metropolitan area. A PUD achieves flexibility and efficiency in land use. A PUD conserves our limited land resources by stopping current patterns of urban sprawl development. A PUD provides a more convenient, conflict-free environment through the integration of commercial, recreational, educational, vocational and open space land uses with residential uses at neighborhood levels. A PUD includes a variety of residential types

suitable for all age groups and income levels. In short, a PUD provides a living environment superior to that generally achievable under standard zoning and subdivision regulations.

The PUD article presented here is intended to provide adequate protection for a responsible community and to channel and encourage the developer in the application of good design and planning. The article falls into two major parts: (1) a statement of intent, objectives and general requirements, and (2) an application procedure and approval process. The intent states that the PUD ordinance is meant to replace the usual approval process involving rigid use and bulk specifications with the actual PUD plan submitted by the developer. The objectives and requirements provide a developer with a ready general guide showing the minimum expectations of a town in

respect to a PUD.

The General Requirements permit a PUD to be located in any part of the town where an applicant can demonstrate that his holdings meet PUD objectives. The use of a variety of housing types is encouraged. Depending on size and needs, accessory commercial, service and other non-residential uses are allowed and encouraged. Intensity of land use ("density") is determined by the characteristics of a particular proposal.

The Application Procedure and Approval Process (flow charted on the following page by functional role) are designed to safeguard public interests while allowing developers great flexibility and freedom. The article provides standards and proced--ures by which the Planning Board and Town Board may evaluate a PUD proposal. The Sketch Plan review is thorough and permits the Town Board-- on the basis of Planning

Board, public,[1] and professional advice-- to give early approval to a project. The key here is commitment at an early time in project development through a clear spelling out of administrative roles and responsibilities. By this, it is hoped that both developers' money and administrative time will be saved through quick elimination or modification of inadequate PUD proposals. Once PUD zoning is granted by the Town Board (step 7 on the flow chart), the approval of preliminary and final plans is deemed to be the technical function of the Planning Board-- with only a nominal role being played by the Town Board unless the sketch plan is substant-

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[1] Prior to zoning a PUD district, the Town Board holds a public hearing on the PUD proposal (step 5a on flow chart). Note that there is normally only this one public hearing per project and that it is held at the sketch plan stage.

ially altered in its preliminary or final form.

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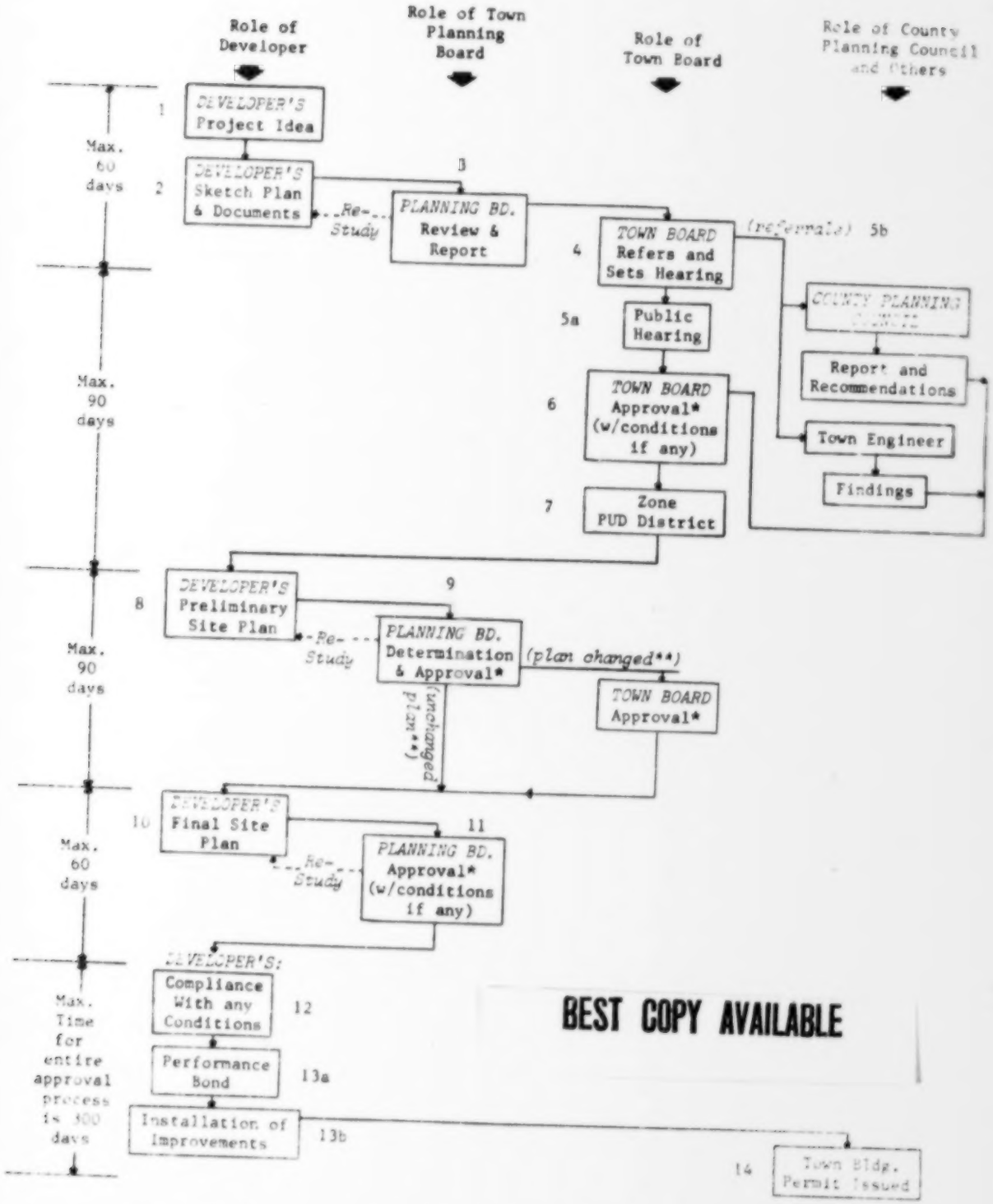
PROCEDURAL FLOW OF THE

PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE FOR TOWNS



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* Unfavorable reports or disapprovals by the Planning Board are subject to hearing before Town Board upon initiative of the developer. Town Board disapprovals are final.

** Sketch Plan

EXHIBIT B

The approval process could take a maximum of 300 days from first submission to issuing of building permit. This 300 day period is maximum provided an applicant acts at his earliest opportunity after each town decision. While a large PUD will probably require at least 300 days, smaller PUD's should be processed far more quickly. Although 300 days, almost an entire year, seems a long time for an application to be approved, it should be noted that commitment occurs at step 7, within 5 months time. The remaining steps involve detailed design development which take this length of time as a matter of course and considering the investment involved, actually demand review periods of this nature. A good architect designing a single $50,000 home would take at least two or three months to develop his plans. How much more important, then, is a $50,000,000

development.

A PUD may be staged. However, if any plan requires more than 24 months to be completed, a PUD must be staged and a staging plan must be developed.

After initial construction and occupancy, changes from the PUD plan are to be processed as special permit requests to the Planning Board--although use changes require Town Board approval.

This model PUD article is intended for direct incorporation into a town's existing zoning ordinance. It is considered enforceable under existing (1969) New York State laws. In short, this ordinance is suitable for adoption by all Monroe County towns without changes-- other than changes in format to fit a particular town zoning ordinance.

A MODEL PLANNED UNIT DEVELOPMENT ARTICLE FOR A TOWN ZONING ORDINANCE

Third Draft (March, 1970)

ARTICLE O

SECTION 00-1-STATEMENT OF INTENT AND OBJECTIVES

A. Intent

It is the intent of this Planned Unit Development (PUD) article to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Town that incorporate a variety of residential types and non-residential uses, and contain both individual building sites and common property wnich are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of

satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This article specifically encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments.

This article recognizes that while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas or neighborhoods that are already substantially developed, these controls represent a type of pre-

regulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the planned unit development concept. Further, this article recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PUD techniques are deemed appropriate through the re-zoning of land to a Planned Unit Development District by the Town Board, the set of use and dimensional specifications elsewhere in this Ordinance are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

B. Objectives

In order to carry out the intent of this

article, a PUD shall achieve the following objectives:

1. A maximum choice in the types of environment, occupancy tenure (e.g., cooperatives, individual ownership, condominium, leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels;
2. More usable open space and recreation areas;
3. More convenience in location of accessory commercial and service areas;
4. The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion;
5. A creative use of land and related physical development which allows

an orderly transition ofland from rural to urban uses;

6. An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs;
7. A development pattern in harmony with the objectives of the Master Plan;
8. A more desirable environment than would be possible through the strict application of other articles of this Ordinance.

SECTION 00-2 - GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS

A. Minimum Area: Under normal circumstances, the mimimum area required to qualify for a Planned Unit Development District shall be one hundred (100) contiguous acres of land. Where the applicant can

demonstrate that the characteristics of his holdings will meet the objectives of this article, the Planning Board may consider projects with less acreage.

B. Ownership: The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the Approved Plan shall be binding on all owners.

C. Location of PUD District: The PUD District shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the

objectives of this article.

D. Permitted Uses: All uses within an area designated as a PUD District are determined by the provisions of this section and the approved plan of the project concerned.

1. Residential Uses: Residences may be of any variety of types. In developing a balanced community, the use of a variety of housing types shall be deemed most in keeping with this article. However, at least thirty-five percent (35%) of the total number of dwelling units within any PUD shall be in single-family, detached structures.*

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2. Accessory Commercial, Service and Other Non-Residential Uses: Commercial, service and other non-residential uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the PUD. The following proportions are deemed to be in keeping with this intent under normal circumstances:

* EDITOR'S NOTE: This figure is based purely on subjective considerations, the desire to preserve a "suburban character". Ideally, no figure would be necessary, and this particular element, as all PUD elements, should be accepted or rejected on the merits of the submitted plan. The insertion, alteration, or deletion of this particular provision should be determined solely by the Town involved, based on its own development goals.

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a. Where the PUD contains one hundred (100) or more dwelling units, a maximum of twenty-four hundred (2,400) square feet of floor area for every one hundred (100) dwelling units may be used for limited commercial and/or service uses. Such commercial or service area may be in separate buildings or incorporated within two-family or multi-family structures or in suitable combinations of these alternatives.

b. Where the PUD contains five hundred (500) or more dwelling units, a maximum of one acre of land for every one-hundred (100) dwelling units may be used for commercial and/or service

purposes.

c. Where the PUD contains one thousand (1,000) or more dwelling units, five (5) acres of land for each one hundred (100) dwelling units may be used for compatible industry in addition to the permitted commercial and service uses.

3. Customary accessory or associated uses, such as private garages, storage spaces, recreational and community activities, churches and schools shall also be permitted as appropriate to the PUD.

E. Intensity of Land Use: Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross building acre than usually permitted in traditionally zoned districts. The Town

Board shall determine in each case the appropriate land use intensity or dwelling unit density for individual projects. The determination of land use intensity ratings or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density.

F. Common Property in the PUD: Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the

improvement, operation and maintenance of such common property and facilities, including private street, drives, service and parking areas and recreational and open space areas.

SECTION 00-3 - PLANNED UNIT DEVELOPMENT APPLICATION PROCEDURE AND ZONING APPROVAL PROCESS

A. General

Whenever any Planned Unit Development is proposed, before any permit for the erection of a permanent building in such Planned Unit Development shall be granted, and before any subdivision plat of any part thereof may be filed in the office of the Monroe County Clerk, the developer or his authorized agent shall apply for and secure approval of such Planned Unit Development in accordance with the following procedures.

B. Application for Sketch Plan Approval

1. In order to allow the Planning Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit a sketch plan of his proposal to the Planning Board. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing; and it shall clearly show the following information:

a. The location of the various uses and their areas in acres;

b. The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private;

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c. Delineation of the various residential areas indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartments, high-rise), and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.); plus a calculation of the residential density in dwelling units per gross acre (total area including interior roadways) for each such area.

d. The interior open space system;

e. The overall drainage system;

f. If grades exceed three percent

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(3%), or portions of the site have a moderate to high susceptibility to erosion,* or a moderate to high susceptibility to flooding and ponding,* a topographic map showing contour intervals of not more than five (5) feet of elevation shall be provided along with an overlay outlining the above susceptible soil areas, if any;

g. Principal ties to the community at large with respect to transportation, water supply and sewage

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* NOTE: Maps showing soil areas and classification for the Towns of Monroe County have been prepared by the Monroe County Planning Council and the Soil Conservation Service. These maps designate general soil characteristics, and are available for inspection at the Town Hall and the County Office Building. Where a potentially significant development problem exists, a special on-site investigation should be conducted.

disposal;

h. General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated;

i. A location map showing uses and ownership of abutting lands.

2. In addition, the following documentation shall accompany the sketch plan:

a. Evidence of how the developer's particular mix of land uses meets existing community demands;*

b. Evidence that the proposal is compatible with the goals of the official Master Plan, if any;

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*NOTE: Evidence as to demands may be in the form of specific studies or reports initiated by the developer or in the form of references to existing studies or reports relevant to the project in question.

c. General statement as to how common open space is to be owned and maintained;

d. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project;

e. Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.*

Note: The developer should be aware that at all subsequent stages, plans must be prepared by professionally competent site planners. Thus, he is advised to engage such persons at the earliest necessary time.

3. The Planning Board shall review the sketch plan and its related documents; and shall render either a favorable report to the Town Board or an unfavorable report to the applicant. The Planning Board may call upon the County Planning Council, the Soil Conservation Service, and any other public or private consultants that they feel are necessary to provide a sound review of the proposal.

a. A favorable report shall include a recommendation to the Town Board that a public hearing be held for the purpose of considering PUD Districting. It shall be based on the following findings which shall be included as part of the report:

(i) The proposal conforms to the Master Plan.

(ii) The proposal meets the intent

and objectives of Planned Unit Development as expressed in Section 00-1.

(iii) The proposal meets all the general requirements of Section 00-2.

(iv) The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.

(v) There are adequate services and utilities available or proposed to be made available in the construction of the development.

b. An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the

applicant what might be necessary in order to receive a favorable report. The applicant may, within ten (10) days after receiving an unfavorable report, file an application for PUD Districting with the Town Clerk. The Town Board may then determine on its own initiative whether or not it wishes to call a public hearing.

4. The chairman of the Planning Board shall certify when all of the necessary application material has been presented; and the Planning Board shall submit its report within sixty (60) days of such certification. If no report has been rendered after sixty (60) days, the applicant may proceed as if a favorable report were given to the Town Board.

C. Application for PUD Districting

1. Upon receipt of a favorable report from the Planning Board, or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering PUD Districting for the applicant's plan in accordance with the procedures established under Section 264 and Section 265 of the Town Law or other applicable law, said public hearing to be conducted within forty-five (45) days of the receipt of the favorable report or the decision or appeal from an unfavorable report.

2. The Town Board shall refer the application to the County Planning

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Council for its analysis and recommendations; and the Town Board shall also refer the application to the Town Engineer for his review.

a. The Town Board shall give the County Planning Council at least thirty (30) days to render its report; and within forty-five (45) days after the public hearing, the Town Board shall render its decision on the application.

b. The Town Engineer shall submit a report to the Town Board within thirty (30) days of the referral duly noting the feasibility and adequacy of those design elements under his sphere of interest. This report need only

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concern itself with general conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design elements as will be required in the later, site plan review stage. The Town Engineer may also state in his report any other conditions or problems that must be overcome before consideration of acceptance on his part.

D. Zoning for Planned Unit Developments

1. If the Town Board grants the PUD Districting, the zoning map shall be so notated. The Town Board may, if it feels it necessary in order to fully protect the public health, safety, and welfare of the community, attach to its zoning

resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, fire houses, and libraries, protection of natural and/or historic sites, and other such physical or social demands. The Town Board shall state at this time its findings with respect to the land use intensity or dwelling unit density as called for in Section 00-2-E.

2. PUD Districting shall be conditional upon the following:

a. Securing of final site plan approval in accordance with the procedures set forth in Section 00-4, supra.

b. Compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the PUD District.

SECTION 00-4 - SITE PLAN APPROVAL PROCESS

A. Application for Preliminary Site Plan Approval

Application for preliminary site plan approval shall be to the Planning Board and shall be accompanied by the following information prepared by a licensed engineer, architect and/or landscape architect:

1. An area map showing applicant's entire holding, that portion of the applicant's property under

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consideration, and all properties, subdivision, streets, and easements within five hundred (500) feet of applicant's property.

2. A topographic map showing contour intervals of not more than five (5) feet of elevation shall be provided.

3. A preliminary site plan including the following information:

a. Title of drawing, including name and address of applicant.

b. North point, scale and date.

c. Boundaries of the property plotted to scale.

d. Existing watercourses.

e. A site plan showing location, proposed use and height of all buildings, location of all parking and truck-loading areas, with access and egress drives

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thereto; location and proposed development of all open spaces including parks, playgrounds, and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal* and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any.

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*NOTE: All methods of sewage disposal must conform to the Monroe County Pure Waters Master Plan and meet all other State and County requirements.

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4. A tracing overlay showing all soils areas and their classifications, and those areas, if any, with moderate to high susceptibility to flooding, and moderate to high susceptibility to erosion. For areas with potential erosion problems the overlay shall also include an outline and description of existing vegetation.

B. Factors for Consideration

The Planning Board's review of a preliminary site plan shall include, but is not limited to the following considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.

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2. Adequacy and arrangement of pedestrian traffic access and circulation including: separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic, and pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size and design of buildings, lighting and signs.
5. Relationship of the various uses to one another and their scale.
6. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise deterring buffer between

adjacent uses and adjoining lands.

7. In the case of apartment houses or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.
8. Adequacy of storm water and sanitary waste disposal facilities.
9. Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
10. Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.
11. Conformance with other specific charges of the Town Board which may have been stated in the zoning resolution.

In its review the Planning Board may consult with the Town Engineer and other Town and County officials, as well as with representatives of Federal and State agencies including the Soil Conservation Service and the New York State Department of Conservation. The Planning Board may require that exterior design of all structures be made by, or under the direction of, a registered architect whose seal shall be affixed to the plans. The Planning Board may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

C. Action on Preliminary Site Plan Application

Within ninety (90) days of the receipt of the application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within said ninety-day period, the

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preliminary site plan shall be considered conditionally approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.

The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, of which conformance with, shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas; and shall not significantly alter the sketch plan as it was approved in the zoning proceeding.

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If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case the Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.

No modification of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with moderate to high susceptibility to erosion, or excavation for and construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a violation of the Zoning Ordinance and, where nec-

essary, final site plan approval may require the modification or removal of unapproved site improvements.

D. Request for Changes in Sketch Plan

If in the site plan development it becomes apparent that certain elements of the sketch plan, as it has been approved by the Town Board, are unfeasible and in need of significant modification, the applicant shall then present his solution to the Planning Board as his preliminary site plan in accordance with the above procedures. The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of the zoning resolution. If a negative decision is reached, the site plan shall be considered as disapproved. The developer may then, if he wishes, produce another site plan in conformance

with the Approved Sketch Plan. If an affirmative decision is reached, the Planning Board shall so notify the Town Board stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.

E. Application for Final Detailed Site Plan Approval

After receiving conditional approval from the Planning Board on a preliminary site plan, and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board for final approval; except that if more than twelve (12) months has elapsed between the time of the Planning Board's report

on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

F. Action on the Final Detailed Site Plan Application

Within sixty (60) days of the receipt of the application for final site plan approval, the Planning Board shall render a decision to the applicant and so notify the Town Board. If no decision is made within the sixty-day period, the final site plan shall be considered approved.

1. Upon approving an application the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Building Inspector who shall then issue a building permit to the applicant if the project conforms to all other applicable requirements
2. Upon disapproving an application, the Planning Board shall so inform the Building Inspector. The Planning Board shall also notify

the applicant and the Town Board in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

G. Staging

If the applicant wishes to stage his development, and he has so indicated as per Section 00-3-B(2)(d), then he may submit only those stages he wishes to develop for site plan approval in accordance with his staging plan. Any plan which requires more than twenty-four (24) months to be completed shall be required to be staged; and a staging plan must be developed. At no point in the development of a PUD shall the ratio of non-residential to residential acreage or the dwelling unit ratios between the several different housing types for that por-

tion of the PUD completed and/or under construction differ from that of the PUD as a whole by more than twenty percent (20%).

SECTION 00-5 - OTHER REGULATIONS APPLICABLE TO PLANNED UNIT DEVELOPMENTS

A. Regulation after Initial Construction and Occupancy

For the purposes of regulating and development and use of property after initial construction and occupancy, any changes other than use changes shall be processed as a special permit request to the Planning Board. Use changes shall also be in the form of a request for special permit except that Town Board approval shall be required. It shall be noted, however that properties lying in Planned Unit Development Districts are unique and shall be so considered by the Planning Board or Town Board when evaluating these

requests; and maintenance of the intent and function of the planned unit shall be of primary importance.

B. Site Plan Review

Site Plan Review under the provisions of this article shall suffice for Planning Board review of subdivisions under Town Subdivision Regulations, subject to the following conditions:

1. The developer shall prepare sets of subdivision plats suitable for filing with the Office of the Monroe County Clerk in addition to those drawings required above.
2. The developer shall plat the entire development as a subdivision; however, PUD's being developed in stages may be platted and filed in the same stages.
3. Final site plan approval under Section 00-4-F shall constitute

final plat approval under the Town Subdivision Regulations; and provisions of Section 276 of the Town Law requiring that the plat be filed with the Monroe County Clerk within ninety (90) days of approval shall apply.

SECTION 00-6 - FINANCIAL RESPONSIBILITY

No building permit shall be issued for construction within a PUD District until improvements are installed or performance bond posted in accordance with the same procedures as provided for in Section 277 of the Town Law relating to subdivisions. Other such requirements may also be established from time to time by the Town Board.

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A NOTE ON THE PREPARATION OF THIS PUD ARTICLE

This third draft of a model PUD article for town zoning ordinance is the result of staff work by the Monroe County Planning Council and the Rochester Center for Governmental and Community Research, Inc. (formerly the Rochester Bureau of Municipal Research, Inc.). Preparation of the article began in October 1968 as part of a series of reports being developed for the Metropolitan Housing Committee, chaired by Joseph C. Wilson (a citizens' committee jointly appointed by the City and County Managers in 1967).

A serious attempt has been made to include representatives from all parts of the community in the evolution of this model PUD article. As a result, representatives from area planning agencies, towns, various professional groups (Rochester Home

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Builders' Association, subdivision engineers, etc.) and private developers have participated in various drafting sessions. This third draft is the result of activities during 1969. New drafts of the article may be expected as improvements occur.

EXHIBIT C

Penfield Planning Board
June 9, 1970

ITEM NO. 3. The application of Meli Brothers Construction Company (Rose Meli), 1385 Empire Boulevard, Rochester, New York for a recommendation from the Planning Board to the Town Board for the renewal of a Top Soil and Excavation Permit under Section 24-3 of the Top Soil and Excavation Ordinance for approximately 30 acres of land located at 1385 Empire Boulevard.(South side of street)

This item was postponed until June 22, 1970

ITEM NO. 4. The application of Feno Pecora, 35 Woodhaven Drive, Rochester, New York for a recommendation from the Planning Board to the Town Board for the renewal of a Top Soil Removal and Excavation Permit underSection 24-3 of the Top Soil and Excavation Ordinance for approximately 37 acres of land located on the south side of Empire Boulevard near 50 Wilbur Tract Road and extending southerly toward Woodhaven Drive.

This item was postponed until June 22, 1970.

ITEM NO. 5. The application of J.C.Audino Inc., 1499 Scribner Road, Penfield, New York for an informal discussion with the Board regarding a proposed Subdivision on the east side of Scribner Road to be known as the "Beacon Hills" Subdivision.

Appearing for this application was Mr.Allen Jenkins of Jenkins, Warzer and Starks, Architect.

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Mr. Shaw wanted the record to show that before the presentation of this PUD, Mr. Myron Starks stepped down from the Board and did not take part in any of the presentation.

Mr.Shaw also explained that this was the first PUD interview before the Board and that at the seminar that the Rochester Home Builders sponsored, Mr.Simon suggested that the PUD hearings be done in private session, but that he did not favor private meetings. He then asked for a little forethought and restraint when it came time for the public to speak. Also, that this would be a preliminary hearing and each would be seeing for the first time, how the developer intends to proceed. Mr. Shaw then explained PUD in lay-mans terms and explained that there would be a public hearing when it goes before the Town Board.

Mr. Jenkins then stated that his firm was the consultant to the firm Denlock, Thomas & Grayle Associates, who represent Mr. Audino.

The site would be 95 acres of undeveloped land connecting with Scribner Road and Five Mile Line Road north of Atlantic Avenue. The utilities water and sanitary facilities on Scribner Road and water on Five Mile Line Road.

He gave a break down of the land use and these are included in the verbatum transcript.

The set back from Five Mile Line Road is 150 feet. A commercial and recreational

area clustered in the center of the property to form a community center as well as a recreational center. Town Houses are in conjunction with the Community center. The drumlin area, the high point of the property, is used for the garden type apartments. The lay out of roads and accesses provides pedestrian access throughout the site without crossing the road or drive. A pedestrian bridge and a tunnel under the road to provide access. The wooded areas will be preserved. The overall density would be 4 units per acre.

A five minute recess was taken to give the people a chance to see the maps and answer questions (or ask).

Mr. Bruce Wells of 60 Robert Road wanted to check the density. His figures showed a density of 5 units per acre.

Mr. Frank Sidoti, an attorney, spoke for area residents. He stated that he wished to present the petition only at this meeting and that he would speak at a future meeting.

Mr. Bill Buholtz of 1479 Shoecraft Road showed by his questions that he was confused by the PUD concept.

Mr. Shaw again attempted to explain the features.

Mr. Walter White of 43 Old Bard Circle, asked about the distribution of family houses.

Mr. Paul Madina of 1470 Five Mile Line Road was concerned about the sun set being cut off from his view and is against PUDs in

general.

Vita Clay of 35 Rodney Lane, Penfield was concerned about children going to the Webster School. She spoke of budgets, etc.

Mr. John Sullivan of 28 Robert Road asked if the PUD project was a corporate managed organization and about the Master Plan for Penfield.

Janet Gray of 35 Roberts Road spoke on the PUDs that she has knowledge of. Mr. Joseph Fraque of 38 Hitchcock Lane a former member of the Rochester Urban Renewal Development, was interested in the effect on the tax rate and does hope the building construction will be an asset to the Town of Penfield.

Mr. Vic Mazzara of 85 Hitchcock Lane asked if the apartments could be purchased.

AND mrs. Gossin had ideas on the subject.

Since no one else appeared to be heard on this application, this matter was TABLED by the Board for further study.

ITEM NO. 6 The application of Stanndco Development Inc., 40 Wildbriar Road, Rochester, New York to discuss a possible Planned Unit Development on properties owned by Martin and Gertrude Sander located at or near 2041 Penfield Road. The two parcels involved are Tax Account # 63-100 consisting of 104.49 acres and tax account # 63-000, a portion of the six acres.

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Mr. Myron Starks continued absent from the Board.

Mr. Tony Calderone appeared as the secretary of Stanndco Developers.

To place the property, it is west of Nine Mile Point Road and south of Penfield Road. On the west side is existing housing, on the south side the Perinton Town Line, and the east side id the O'Brien project with Wegman shopping area.

Mr. Louis Childs of Jenkins, Wurzer & Starks, then spoke describing the lay of the land. The high point of the property will be for the apartments and this will be the center of the site, then for the low flat area that is fed by a natural creek which runs through the lower portion of the site. All of the higher density of living would be centered in the center of the site with the single family dwellings towards the perimeter of the site. The road development consists of a large looproad and exits into Penfield Road. They are talking to O'Brien about having just one main road between the two projects that will exit onto Penfield Road. As this was a preliminary hearing, there will be further appearances.

Mr. Thomas Tho son asked about the time element and the amount of houses in a cluster development, and the type of house mix.

Dr. J.D. Hare of 52 Farmbrook Drive, asked if the PUD ordinance was too restrictive.

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Mr. Calderone feels that garages on the lower income houses (apartments) are not needed, and also, he disagrees with the set backs.

Mr. John Sullivan, Robert Road, was interested in the type of town house and the price range.

Mr. Paul Mandina of Five Mile Line Road asked how many units per acre.

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August 25, 1970

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ITEM NO. 3 The application of Joseph C. Audino, 1499 Scribner Road, Penfield, New York for a recommendation from the Planning Board to the Town Board for the rezoning of approximately 97 acres of land on the east side of Scribner Road from Residential "AA" to Planned Unit Development Zone.

Before this presentation, Mr. Shaw, Chairman, asked the audience to limit their comments to a brief statement as he felt all presentations of the PUD should be heard publicly and at this point, the plans for definate utilities, etc. have not been worked out. On each PUD, there would be many meetings.

Mr. Joseph C. Audino, President of Hallmark Homes, appeared for this application. He presented aerial photos which showed the location of the property to be on the east side of Scribner Road and on the north by Five Mile Line Road with most of the area, just vacant land with about 25 acres of woods. There will be two proposed roads leading to Scribner Road and about 6 cul-de-sacs within the area. The "AA" lots would be 200 feet deep by 100 feet wide and would back up to wooded area. Then there would be lots the size of 140 feet by 80 feet . Also within this area is a home which is 165 years old which he

EXHIBIT D

proposed to leave in tact. 17 acres would be set aside for duplex houses.

Mr. John Bickmore, of Penfield Better Homes, stated that he favored the previous proposal, and asked why the proposal was turned down.

Mr. Bruce Wiles, 60 Roberts Road made a point about being surrounded by "AA" lots.

Mr. Joseph Simeone of 57 Timber Line feels that the area might produce a Commercial type area. That if this PUD were approved another developer might try a similar project and not be as conscientious as Mr. Audino.

Mr. Henry Dutcher, again representing Northwest Penfield Homeowners Association, made several objections to this proposal, and then held the mike and asked for questions from the audience.

Mr. Vic Mazzara, 85 Hitchcock Lane opposed.

Mr. John Sullivan, Robert Road felt that the resident who buys out here seems to loose the guaranty that was given to him at the time he moves into the area. And he resents having to constantly defend their positions.

Mr. Richard Harold, 876 Embury Road, stated that all of his tract 'donated' eight feet to the town and did not feel Mr.

Audino should keep using this term, also that the knoll that Mr. Audino proposes should be a thing of beauty because he feels that this is the highest point in the town and he does not want to see apartments there.

Mr. Dutcher again spoke to the point that people bought out here with the idea that the area would not change.

Mr. Robert Teamerson, the attorney for Mr. Audino, stated that there could be no guarantee about zoning, that over the years, the zoning has changed land then her referred to the Master Plan and stated that the PUD ordinance was being covered in this plan.

Mr. Robert Herman of 87 Hillary Lane, as Chairman of PACT which was formerly the Penfield Council for Human Relations, feel that this group (The Penfield Homeowners Association) is running scared. He stated he could not agree with the PUD because it did not have enough of a mix. And he asked about the engineer from Syracuse who was to be hired to do a layout for the PUD.

Mr. Shaw explained that this layout was not successful and why but that Stannco PUD was on file at the Town Hall and Mr. Herman could see it any time he wished.

Mr. Raymond Santirocco of 51 Kevin Drive, stated that the PUD was here and did not want the Board to disapprove this proposal

but to change that which was not acceptable.

Mr. Max Holtzberg said that he was the original inhabitant of Hallmark II and that there was never a mention that a PUD would go there. And he just does not want apartments or duplexes any where near him.

Mr. Nicholas Palusio of 151 City View Drive spoke in favor.

Mr. Joe McCue of 3 Bittersweet Circle, who is the Executive Vice President of the Rochester Home Builders Association, spoke in favor of this concept.

Kack DeVuyst 1420 Scribner Road, is in favor.

Mrs. Bickmore spoke in favor if the former proposal could be incorporated.

Mr. Audino felt he had to take out some of the former proposal to have something that the neighborhood would not object to.

Mr. Shaw asked the group if it was the multiple dwellings that were being opposed to, and then explained the mixture of double and single together on smaller streets, and wondered if this would be acceptable.

The group spokesman said that he could not answer.

Mr. Frank Lockner, 1512 Five Mile Line

would rather have Double A or have it remain empty.

Mr. Angelo Moretti, 1684 Scribner Road, objects to the added traffic and feels that the PUD should be east of the Febster Fairport Road.

Bob Blackmore, 18 Timberline Drive is for this proposal. He is new here from Illinois where they now have PUD and feels that it is working very well.

Since no one else appeared to be heard on this matter, this matter was TABLED by the Board for consideration by the full Board.

All of the Board Members present voted "aye".

ITEM NO. 4 The application of Euguen Hartung (Hershey Malone Assoc.) 1800 Penfield Road, Penfield, New York for final approval of a 46 lot subdivision to be known as the "Parkside Subdivision" and located on the south side of Whalen Road on the former Footer property and for a variance to permit lots of the size and area as shown on map filed, also set backs.

Mr. Hartung was at the meeting but had left, therefore, this item was postponed until September 15, 1970.

MISCELLANEOUS MATTERS

ITEM NO I The application of Arthur Treachers Fish and Chips of Monroe County, New York Inc., 945 Jefferson Road, Rochester, New York for an interview with the Board concerning approval of a site plan for a proposed restaurant to be located at 1968 Empire Blvd. in a commercially zoned area.

Postponed until September 15, 1970, no appearance.

TABLED MATTERS FROM THE AUGUST 11th MEETING

ITEM NO. 1 The application of Seneca Franchises, 7629 Oswego Road, Liverpool, New York to review the site plan of a proposed one hour martinizing dry cleaning store, not to be coin operated, to be located in a remodeled existing building at the intersection of Empire Blvd. and Creek Street, Prior coordination with the appropriate State and County authorities indicated their respective requirements will be met.

Postponed until September 15, 1970.

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PLANNING EXECUTIVE
September 22, 1970

The Board felt that they should stay 50 feet from the Trailer Court and leave all of the trees in that area. The Board later decided that it might be best to leave 50 feet along the east side.

This matter was TABLED for further consideration. After the engineers have had an opportunity to study the complete lay out including the State Road.

The application of Dimco Corporation

The application of Dimco Corporation, 1225 Ridgeway Avenue, Rochester, New York for a variance to allow the construction of dwellings in Section #3 and #4 of the Independence Ridge Subdivision with ground floor areas required in a Residential "A" District rather than those required in the present "AA" District.

After discussion by the Board, Mr. Thompson made and Mr. Bittner seconded the following resolution:

> RESOLVED, that the application of Dimco Corporation, 1225 Ridgeway Avenue, Rochester, New York for a variance to allow the construction of dwellings in Section #3 and #4 of the Independence Ridge Subdivision with ground floor areas

EXHIBIT D

> required in a Residential "A" District rather than those required in the present "AA" District. Section #3 consists of 39 lots and Section #4 consists of 49 lots. (23.8 acres), be and the same hereby is DENIED.

VOTE OF THE BOARD

George Shaw "aye" — Robert Thompson "aye"
Willard Parker "aye" — Arthur Bittner "aye"

Upon the motion, all of the Board Members having voted "Aye", the resolution was declared adopted.

JOSEPH AUDINO'S PUD

The application of Joseph C. Audino, 1499 Scribner Road, Penfield, New York for a recommendation from the Planning Board to the Town Board for rezoning of approximately 97 acres of land on the east side of Scribner Road from Residential "AA" to Planned Unit Development Zone, b

In discussing this application, the Board felt that this plan did not entail the concept of a PUD as presented in the Ordinance.

After much discussion, Mr. Bittner made and Mr. Thompson seconded the following resolution:

EXHIBIT D

RESOLVED, that the application of Joseph C. Audino, 1499 Scribner Road, Penfield, New York for a recommendation from the Planning Board to the Town Board for rezoning of approximately 97 acres of land on the east side of Scribner Road from Residential "AA" to Planned Unit Development Zone, be and the same hereby is DENIED for the following reasons:

1. A Planned Unit Development proposal is not consistent with the best overall use of the area.

VOTE OF THE BOARD

George Shaw "Aye" Arthur Bittner "Aye"
Robert Thompson "Aye" Willard Parker "Aye"

Upon the motion, all of the Board Members present having voted "Aye", the resolution was declared adopted.

Since there was no further business to come before the Board, the meeting was adjourned at 10:30 P.M. EDT.

EXHIBIT D

/s/ James B. Jones
James B. Jones
Clerk of the Board

NOTE: On the original resolution mailed to the applicant, the word Urban was used instead of the word Unit. PUD

EXHIBIT E

by James Hartman and seconded by John D. Williams that the following resolution be adopted;

RESOLVED, that the application of Thomas F. Frazer 2316 Lyell Ave., Rochester, N.Y. for approval of a one lot subdivision plot for Dr. Alex Braiman. Said property being located at 1722 Salt Rd. (Acct. #460-000) and in a double "A" Residential zone. Said parcel fronts 428 feet along Gloria Drive and is 1020 feet in depth, be and the same hereby is APPROVED.

VOTE OF THE BOARD

George Shaw, "AYE" Willard Parker, "AYE"
John Williams, "AYE" James Hartman, "AYE"
Richard C. Ade, "AYE"

Upon the motion, all of the Board members present having voted "AYE", the resolution was declared adopted.

ITEM # 1. The application of Jenkins-Wurzer-Starks, Architects and Planners, 1545 East Ave., Rochester, N.Y. for sketch plan approval of a proposed Planned Unit Development extending from Scribner Rd., east to Five Mile Line Rd. and from a line approximately 600 feet north of Roberts Rd. in a northerly direction for a distance of about 2600 feet; such Planned Unit Development to be known as

EXHIBIT E

"Beacon Hills".

Mr. Myron Starks, architect, Mr. Lew Chiles, architect, and Mr. Ronald Iman appeared in behalf of this application.

Mr. Starks presented basic information concerning this project. He stated it was planned on 97 acres of land, followed the basic Planned Unit Ordinance, stated general reasons for proposed use versus all single family dwellings, pointed out the objectives of a planned Unit Development, stated there would be no commercial uses within the PUD and that the density was less than the maximum allowed within the ordinance.

Mr. Starks also presented a sketch plan for approval and explained the plan to the Board and to the public. He presented a topography map also.

Various other information was also submitted concerning density, number of children to be generated, both non-school age and school age, tax revenues in Planned Unit Developments versus double "A" residential areas, location of the project in relation to adjacent properties and homes, street layouts, etc. The phase drawing was also submitted showing a potential three year construction period for the total project.

Various elevation cross sections showing the location of multi-story apartments

EXHIBIT E

were shown to note the fact they were no higher than two story residential dwellings.

Basic breakdown would show a total of 474 units on the 97 acres of land.

Following the formal presentation by Mr. Starks, a general discussion took place between the members of the Board, Mr. Starks and the audience. Various people in the audience did comment on the proposal.

No one else wished to be heard on this matter and the matter was tabled by the Board pending further study.

The Clerk of the Board was directed to inform the applicant of this action.

TABLED MATTERS

ITEM #1. The application of James Comparato, 217 Lake Ave., Rochester, N.Y. for an interview with the Board in connection with the development of 9.73 acres of land immediately north of Pen Fair Plaza at the corner of Webster Fairport Rd. and Penfield Rd. for an apartment project. Said land conditionally rezoned to Apartment House and Multiple Dwelling District by the Town Board on December 2, 1968 and subject to submission and acceptance of a subdivision map and site plan, (Acct. #5456 -300).

Mr. James Comparato appeared before the Board and submitted to the Board additional drawings showing this proposed project.

EXHIBIT E

He pointed out to the Board that the additional drawings did include the information requested by the Board following their last hearing on this matter.

No one wished to be heard on this matter and the matter was tabled by the Board pending further study.

The Clerk of the Board was directed to inform the applicant of this action.

ITEM # 2. The application of Stanndco Builders Inc. 40 Wildbriar Rd., Rochester, N.Y. for preliminary site plan approval for the proposed

EXHIBIT F

REPORT ON PROPOSED ZONING ACTIONS
REFERRED TO MONROE COUNTY PLANNING COUNCIL
PURSUANT TO SECTIONS 239-1 and 239-m OF THE
GENERAL MUNICIPAL LAW

Date June 24, 1971

ITEM NUMBER PN-47

REPORT TO: Planning Board
Town of Penfield
3100 Atlantic Avenue
Penfield, New York 14526

SUBJECT: Application of Jenkins-Wurzer-Starks to rezone Res. AA to PUD - Extending from Scribner Road East to Five Mile Line Road

RECOMMENDATIONS:

(a)_____ That the decision by the local agency having jurisdiction be based solely on its study of the facts of the case, since the County Planning Council's review of the matter has not revealed any pertinent inter-community or countywide considerations.

(b) X That the proposal be approved.

(c)_____ That the proposal be modified as follows:

(d)_____ That the proposal be disapproved.

EXHIBIT F

See attachment

/s/ Don B. Martin
Director of Planning
Monroe County Planning
Council

WEU/GRM/a
cc:DPW

EXHIBIT F

Town of Penfield
Zoning Referral #PN-47
June 24, 1971

It is the recommendation of the Monroe County Planning Council that the application of Jenkins-Wurzer-Starks, Architects and Planners, for a rezoning of the property extending from Scribner Road east to Five Mile Line Road and from a line approximately six hundred (600) feet north of Roberts Road in a northerly direction for a distance of about two hundred (200) feet, from residential "AA" to Planned Unit Development (P.U.D.) District, be granted based on the following reasons:

1. The proposal will take advantage of existing natural features on the site, and incorporate them into recreational areas for the residents.

2. The site is in close proximity to major commercial and personal services.

3. The site can be easily served by public sanitary sewers and water facilities, and will be served by two thoroughfares which are capable of handling the increase in traffic that will be generated by such a large development.

However, the Council feels there is a need for a positive commitment on the part of towns and developers to include in

EXHIBIT F

their designs the widest possible range of housing to accommodate all levels of income. Part of the concept of the P.U.D. is to provide various housing types and price levels within one development. Therefore, the Planning Council suggests that any approval on the part of the town should be based on a commitment from the developer or owner that a certain portion of his for-sale housing will be low to moderate income housing.

The Monroe County Planning Council has taken the position of supporting the development of such housing in the county based on the following reasons:

1. There is a critical shortage of housing for low and moderate income households in Monroe County that is seriously affecting the economic health of the entire county.

2. A combination of existing laws, attitudes, and market conditions are all working against the solution of this problem.

3. Those few sites that are developable for such housing are irreplaceable resources; and the site under consideration here is just such a site.

Further commitment should include the understanding that such housing units will not be concentrated and/or isolated from the rest of the development.

EXHIBIT F

It is further suggested that approximately twenty per cent (20%) of the sale units would be a fair assessment of the appropriate amount of such housing.

Finally, the Council urges the developer or owner to explore alternative ways available which would allow the same opportunity for integration of income levels in his rental units.

We should like to point out that all access drives and curb cuts with respect to Scribner and Five Mile Line Roads must be coordinated with and approved by the County Department of Public Works.

Furthermore, no building permits may be issued until provisions of Section 239-K of the General Municipal Law (County DPW review) are complied with.

EXHIBIT G

7-12-71

PENFIELD PLANNING BOARD
Page 10

ITEM #3. The application of Jenkins-Wurzer-Starks, Architects and Planners, 1545 East Ave., Rochester, N.Y. for a sketch plan approval of a proposed Planned Unit Development extending from Scribner Rd. east to Five Mile Line Rd. and from a line approximately 600 ft. north of Roberts Rd. in a northerly direction for a distance of about 2600 ft., such Planned Unit Development to be known as "Beacon Hills".
NOTE: PUBLIC HEARING CLOSED, MATTER UNDER CONSIDERATION BY THE BOARD.

Mr. Shaw, Chairman of the Board, explained that this item has been heard previously and the Board has studied the information submitted.

No one else wished to be heard on this matter and a motion was made by James Hartman and seconded by John D. Williams that the following resolution be adopted:

RESOLVED, that the application of Jenkins-Wurzer-Starks, Architects, and Planners, 1545 East Avenue, Rochester, N.Y. for a sketch plan approval of a proposed Planned Unit Development extending from Scribner Rd. east to Five Mile Line Rd. and from a line approximately 600 ft. north of Roberts Rd. in a northerly direction for a distance of about 2600 ft., such Planned Unit Development to be known as "Beacon Hills", hereby is

EXHIBIT G

RECOMMENDED, provided that:

1. The Town Board hold a Public Hearing for the consideration of the rezoning of this area to a Planned Unit Development District.

2. This recommendation is premised on the applicant reducing the density from that proposed.

VOTE OF THE BOARD

James Hartman, "AYE" John D. Williams, "AYE"
Willard Parker, "AYE George Shaw, "NAY"
Richard C. Ade, "AYE"

Upon the motion, 4 of the 5 members having voted "AYE", the resolution was declared adopted.

Mr. Shaw explained he had voted "NAY" on the grounds that the Planned Unit Development proposed was not consistent with good planning and the best overall use of the land in question.

ITEM #4. The application of James Comparato, 217 Lake Ave., Rochester, N.Y. for an interview with the Board in connection with the development of 9.73 acres of land immediately north of Pen-Fair Plaza at the corner of Webster Fairport Rd. and Penfield Rd. for an apartment project. Said land conditionally rezoned to Apartment House and Multiple Dwelling District

EXHIBIT H

B E A C O N

H I L L S

Builders & Developers

J.C. AUDINO, INC.

EXHIBIT H

Beacon Hills PUD*

B

What is a PUD?

E

A PUD is a planned community project
A having the following characteristics:

C a. Dwelling units grouped into clusters allowing an appreciable
O amount of land for open space.

N b. Higher densities allowed than conventional projects of the same acreage.

H c. Part of the land is used for non-residential purposes,
I i.e. - recreation, woods, picnicing, etc.

L

PUD's can, and do, work toward the
L creation of publicly owned lands. Since, in the usual development,
S each house requires a great deal of land, eventually the cost of land is driven up. The town may then find it economically impossible to buy land for large parks or for such increasingly important uses as wild-life preserves. If new schools must be built, land for them will also be costly, a fact which sooner or later will show in the already painful tax rate.

* Planned Unit Development

EXHIBIT H

ADVANTAGES OF A PUD

- The PUD's clustered houses create common areas of open land that can run through the entire project, instead of being concentrated in one massive and costly park.

- The PUD requires a well organized, soundly financed developer, and so discourages the fly-by-night developer - a decided advantage to both the Town and residents of the PUD itself.

- The PUD's higher densities reduce land and land development costs per unit, which in turn may lower prices and rents. Property planned clusters reduce street and utility runs and the amount of grading necessary for house sites - all of which reduce costs. Higher densities also mean less land consumed for a given number of housing units, thus reducing inflationary pressure on the Town's land prices.

- The PUD can bring in tax revenues in excess of the amount of services it requires. Revenues are higher because there are more units. Costs of services are lower because the PUD almost always has a much lower proportion of school children than do single family houses. Road maintenance cost is less because

of the high density of population to the amount of roads required.

LOCATION

Beacon Hills is located in Penfield, where you are in close proximity to the advantages of the big city, yet in the loveliest of suburban communities.

The New England tradition was planned for Beacon Hills primarily to benefit the entire community from an aesthetic standpoint. For in Penfield, the primary aim of the residents is to preserve and protect the glorious beauty that nature and nature's God bestowed upon them.

ARCHITECTS - JENKINS • WURZER • STARKS

The firm of Jenkins•Wurzer•Starks, Architects and Planners, was formed in 1969 by the merger of the practices of two Rochester firms and a corporate architect. It is a natural outgrowth of the broad experience of the three partners. The nucleus of the firm was formed in 1961 when Myron Starks entered private practice.

Drawn together among the partners, associates, staff architects and draftsmen are more than one hundred years of experience in the architectural profession.

The firm believes that architecture is a process for beautifying and improving the environment; and that the design of buildings must

harmonize with and enhance the natural surroundings, rather than interfere with them.

ENGINEERS - DENLUCK, THOMAS, MCGRAIL & ASSOCIATES

The firm of Denluck, Thomas, McGrail & Associates, Surveyors and Engineers, is the successor to a firm which established roots in the Rochester area in 1880. It provides a full range of professional services in the fields of Land Surveying, Engineering, Land Planning and Development.

The engineering division has been broadened to provide a complete spectrum of civil engineering service. This service entails design and field supervision of the construction of sewage facilities, storm water disposal, water supply systems, land development and other related projects that may be required by an individual or municipality.

BUILDERS & DEVELOPERS - J.C. AUDINO, INC.

J.C. Audino - President
Ronald J. Iman - Vice President

Joe Audino is one of the few genuinely dedicated men in this world of high pressure and finance, an astute businessman, but a

EXHIBIT H

businessman tempered by time and experiences that serve to instill an inward evaluation and acceptance of those things that are of true value in life.

An active man, Joe is part of the panorama that is Penfield, he does not believe in joining organizations for appearance sake and limits his affiliations to those organizations where he feels he can actively contribute ... as a member of the Rochester Home Builders Association he serves on the Board of Directors, in the St. Joseph's Church, he assisted in the design and construction of a school addition and the Convent. He has contributed in no small measure as a member of the Penfield Republican Club, Lakeshore Kiwanis, Rochester Chamber of Commerce, Penfield Country Club and the Businessmens Association. He recently headed the Design & Planning Commission for new addition to Penfield Senior High School.

J.C. Audino Company presents an impressive list of construction accomplishments.

- 2,500 homes in Webster, Irondequoit Rochester and Penfield
- Portland Manor Apartments
- Culver Manor Apartments
- Addition to St. Joseph School and Convent

EXHIBIT H

- Terrace Gardens Bowling Hall
- Flamingo Motel - in Florida
- Club House - Penfield Country Club

Joe Audino is proud of his profession, and his profession can well be proud of Joe Audino, he is in the mainstream of our life, contributing to and for the causes he believes in ... "To provide a better environment for a better community for the benefit of all."

EXHIBIT H

Presenting --- a few of the many plans for Beacon Hills

S I N G L E F A M I L Y H O M E S

RANCHES, SPLITS AND COLONIALS

Each Beacon Hills home is thoughtfully planned and efficiently designed. A variety of elevations and floor plans are available. Ranches, splits and colonials fulfill the needs and desires for any and all age groups from the young executive with a growing family to the retiree looking for the fresh air and sunshine of country living.

All Beacon Hills homes are designed in keeping with the overall New England motif of the Community. Every home is constructed using the highest standards of the construction industry. There is no waste space in any home. There is more closet space, more storage space --- and more living space --- in every Beacon Hills home.

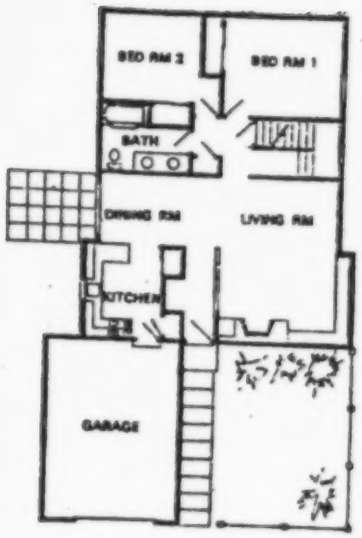
The following features are included in the Beacon Hills homes.

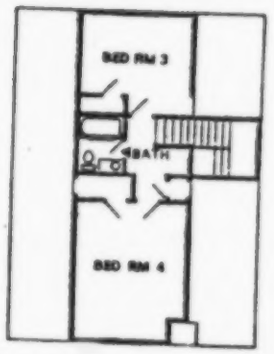
Seeded Lawn
One and 2-Car Garages
Storms and Screens
Take-Out Windows (Casements Optional)
Patio Door
30 inch Free-Standing Range
Dishwasher-Disposal
Master Bedroom Bath Optional in Some Models
Ceramic Tile Baths
Paneled Family Room Optional
Fireplace Optional
Self-Seal Roofs
40-Gallon Glass-lined Hot Water Heater
Fiber Glass Insulation

EXHIBIT H

Armstrong Tile and Linoleum

Many other quality features





THE WOODS HOLE

2 BEDROOM CAPECOD
can expand to 3 or 4 bedroom as your family grows.

EXHIBIT H

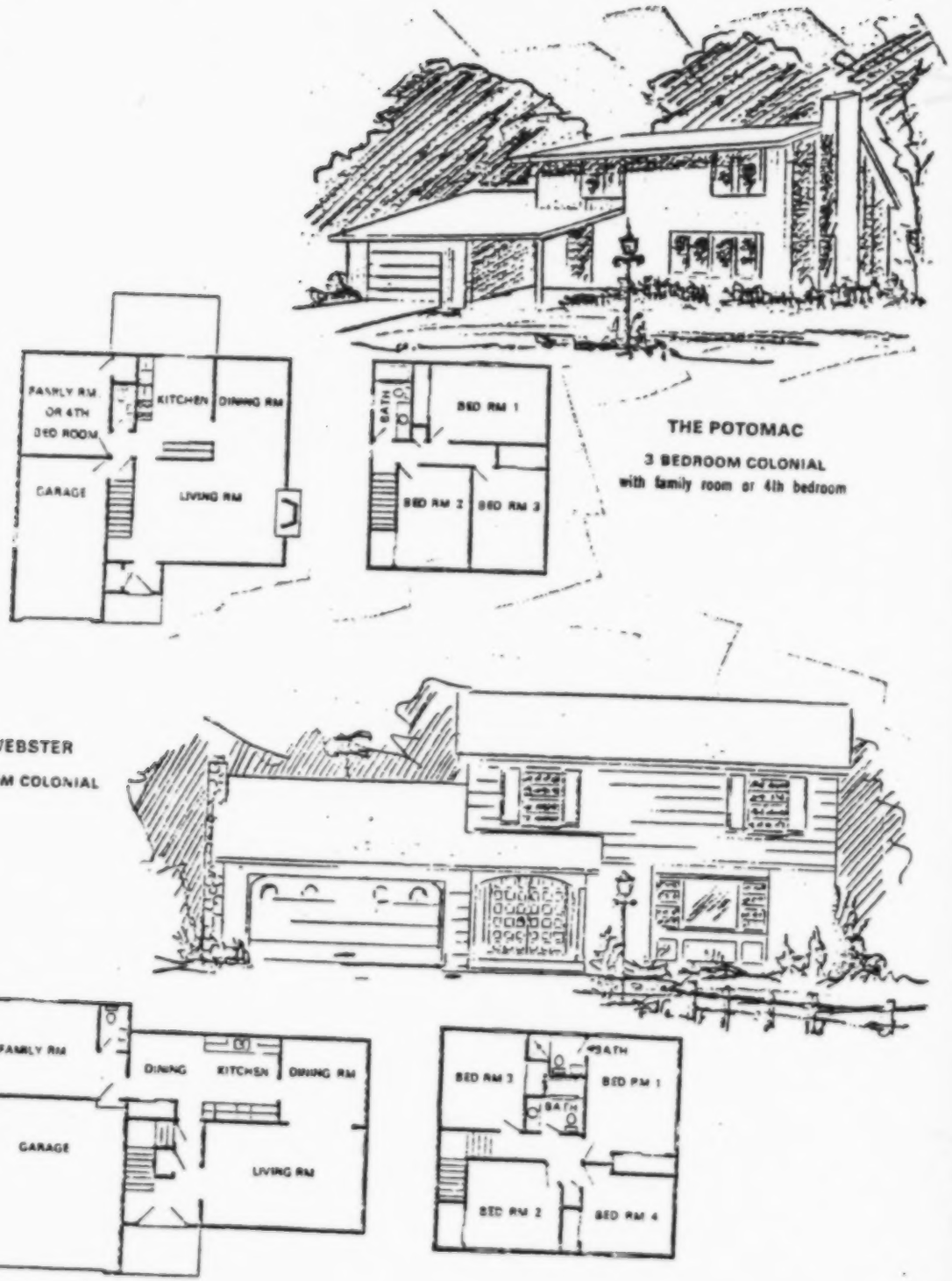


EXHIBIT H

BEACON HILLS

PLANNED UNIT DEVELOPMENT

Beacon Hills is a community that has been planned for the very best in suburban living. A plan to take full advantage of all the things you move to the suburbs to seek. It is a community planning concept which is certain to set a new standard for suburban residential communities. In Beacon Hills, are streets that have been planned for a residential community, where the automobile will no longer be a threat to your children crossing the street to play, or walking and running on their way to school. Strolling, for children and adults alike, will become a pleasure. In Beacon Hills you will live in an atmosphere that is conducive to a highly rewarding new way of life. Where you will share mutual interests with interesting neighbors.

RECREATIONAL FACILITIES

Recreation close to home, as part of the daily way of life, is an essential ingredient in today's community. Wurzer, Jenkins, and Starks, in developing Beacon Hills have provided recreational facilities for all tastes. Plans call for the construction of a community, year-round swimming pool with apprcpriate supporting facilities and related deck and terrace areas, tennis courts, recreational building and

shelters and well equiped play areas for the young. Proper supervision will be maintained for all facilities.

Beacon Hills

PLANNED UNIT DEVELOPMENT

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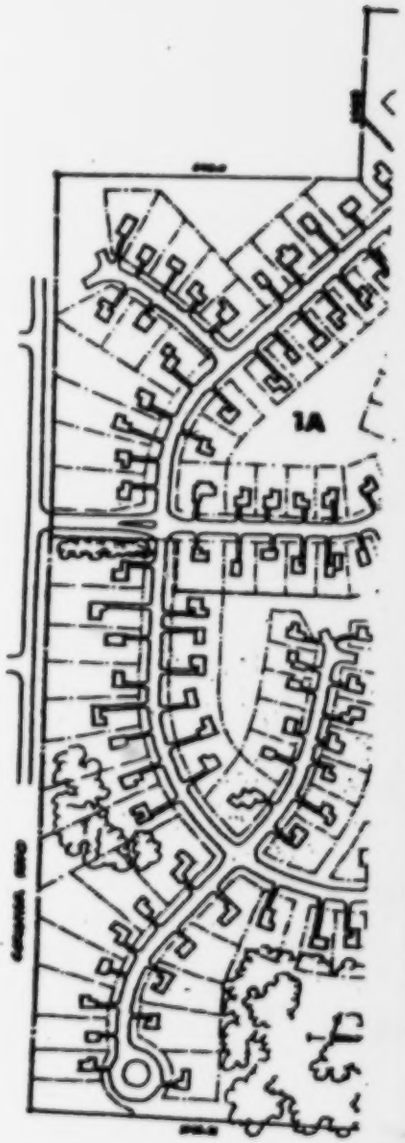

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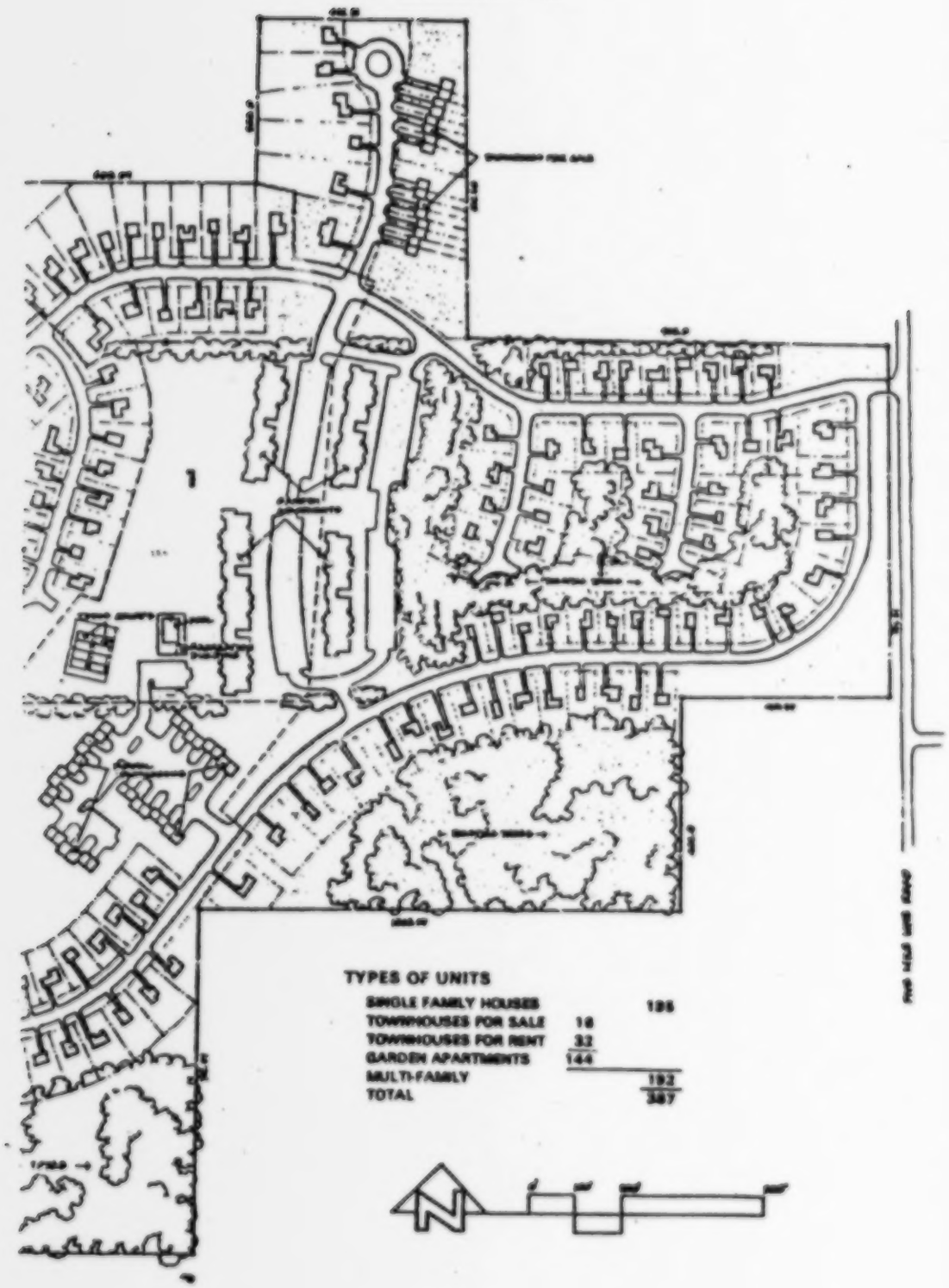
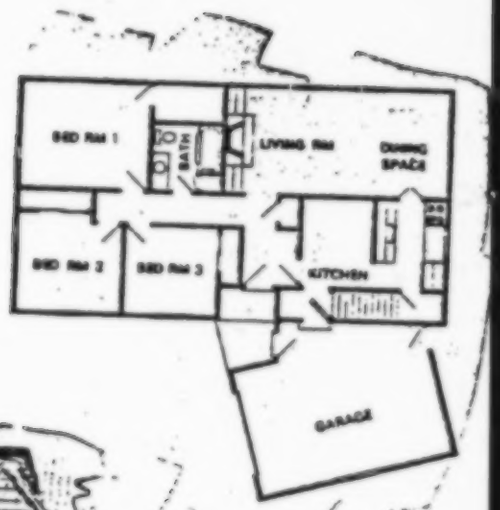


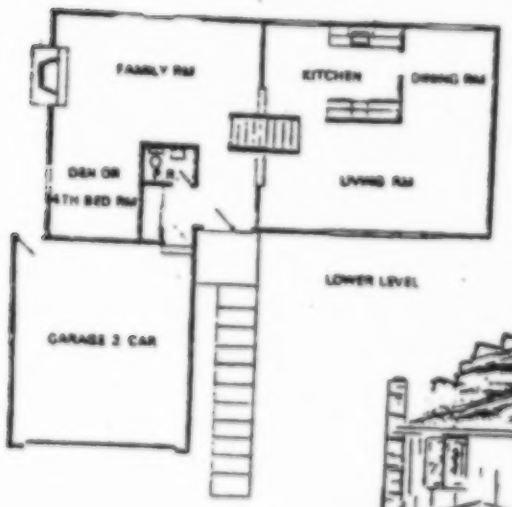
TYPES OF UNITS

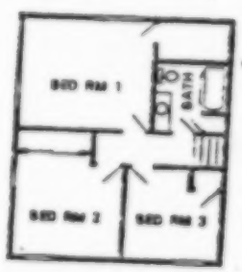
SINGLE FAMILY HOUSES		195
TOWNHOUSES FOR SALE	16	
TOWNHOUSES FOR RENT	32	
GARDEN APARTMENTS	144	
MULTI-FAMILY		192
TOTAL		387

THE MONTCLAIR

3 BEDROOM RANCH



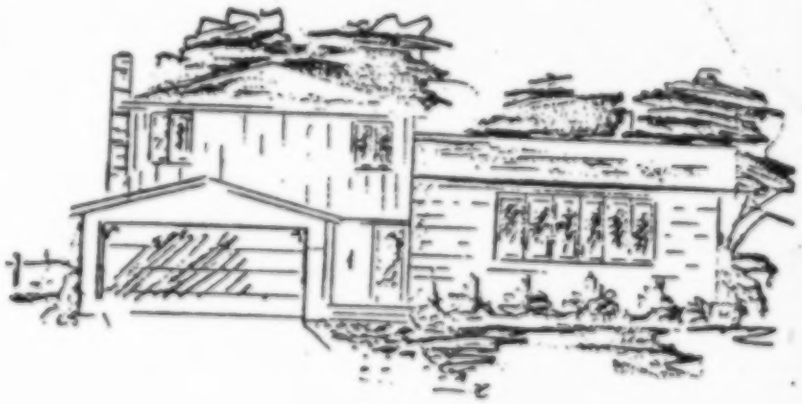


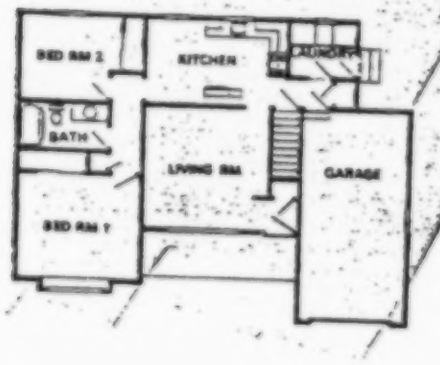


THE GREGG

3 BEDROOM SPLIT

with den or 4th bedroom

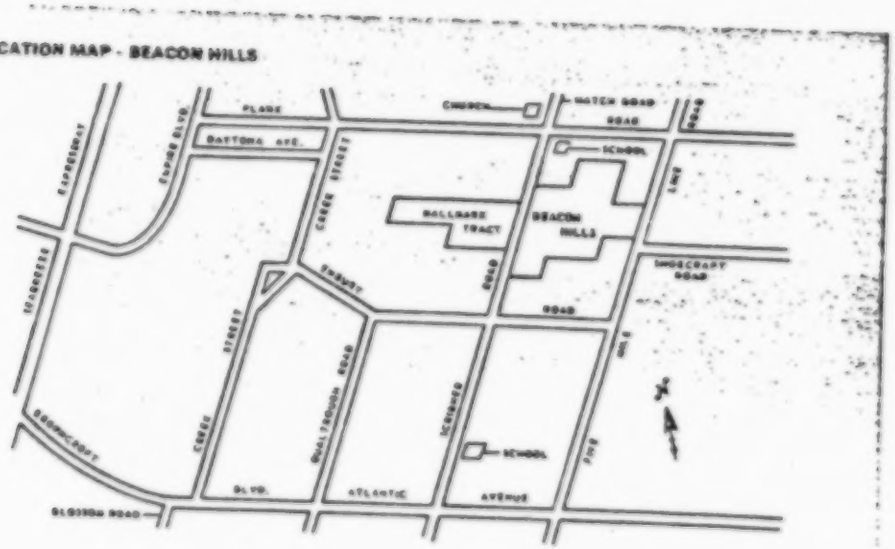




THE RANCHERO

2 BEDROOM RANCH

LOCATION MAP - BEACON HILLS



GARDEN APARTMENTS

GARDEN APARTMENTS

In keeping with the theme of Beacon Hills, which is to enhance the natural setting with a New England motif, both the Garden Apartments and Townhouses have been designed with varying combinations of materials to respect and improve the natural wooded landscape. Both the Townhouses and Garden Apartments have been situated to form expansive, landscaped courts, providing quiet elegance in a Country Club setting. The elegance and convenience which are generated by their role in the PUD offers a very important financial contribution to the town. Suburban communities, particularly those with a superior school system, invariably attract families with school-age children to take advantage of the schools. When the children are grown, however, their parents are no longer concerned with the schools. They no longer wish to maintain a large home, and finding no suitable apartments or townhouses available, move away. With them, goes a low demand for services and a higher than average purchasing power. This purchasing power would have benefitted the merchants, and the tax base of the town.

TOWNHOUSES

TOWNHOUSES

The PUD, with its Garden Apartments and Townhouses, offers both the young family and the older, more mature family a viable alternative to the single-family, detached house. The PUD, being a planned community, offers a life-time place to live. The young, newly married couple utilizes the apartment. As the family grows, a home is available for them in the PUD. Then, after the children are grown and married, the older couple can make use of the Townhouses. Thus, through the PUD, the town gains both money and a more varied, hence stable, population.

At Beacon Hills, the Garden Apartments and the Townhouses are located near the center of the PUD, in close proximity to the recreational areas. There, with their New England traditional motif, they form an attractive setting for the leisurely tempo of living which the community is designed to maintain, through its lifetime program of convenience and relaxation.

EXHIBIT H

IN SUMMARY

Most residents, when they hear the word "development," immediately draw associations - most of them bad. They visualize their hills being bulldozed into a vast area of streets, sidewalks, tiny back yards and identical houses spread out in an endless checkerboard of repetitive blocks. They foresee a flood of children to overburden the school system and thereby esculate their property taxes.

They moved to the suburbs to escape just such conditions as these. So when hearings are held on the new project they'll be there --- fighting.

Of course, most of these objections have already been eliminated previously, in the preceeding pages of this booklet, but a few more facts are necessary.

Land is a major key to housing development - economically as well as physically. If a builder is forced to include more land with each house, he must raise prices. Since it is economically not feasible to build a $20,000 house on a $20,000 lot, he must therefore build in much higher price brackets. Thus, families of modest means - particularly younger families - find it harder and harder to live in the community.

Older couples and individuals who no longer have a need for big houses find nothing to choose from in smaller units. They may then move away, taking with them higher than average incomes, much of which would

EXHIBIT H

be spent in the town, and tax payments which would not be counter balanced by demands on local school and recreational facilities.

We all feel that this site is ideal for a planned unit development. Its hills and trees, which will not be disturbed, beautifully lend themselves to the rustic atmosphere which will prevail in the development. The recreational opportunities afforded by this location are many and varied and some have already been planned into the development.

We feel that anyone is entitled to live here. This type of plan is non-discriminatory in that the young buyer, the older buyer and the moderate income buyer will all be able to avail themselves of this opportunity.

The plan itself, is well designed for the area, in that the designs and values of homes will be in keeping with the surrounding area; for it is the desire and intent of the builders and developers to create one of Penfield's finer communities.

We hope that someday you will live here.

J.C. Audino, Inc.

800
EXHIBIT I

Penfield PUD Law Hits Snag on Density

The Penfield Town Board last night called a hearing for Aug. 17 to revise the town ordinance for planned unit developments (PUD) by decreasing the allowable density.

The present PUD ordinance allows an average of 5.2 units per acre; the hearing will be held to lower that to four units per acre and to stipulate that half of the units must be single family residences.

The present ordinance stipulates the number of acres, rather than the number of units, that must be single family residential.

"In some of these PUD's coming before the board, we're getting as many as 70 to 80 per cent apartment units. We never intended that percentage to be so high," said Supervisor Howard J. Frank. "We didn't notice this in the ordinance until developers started presenting their plans."

The town board also will hold final hearings on Aug. 17 on:

The proposed Beacon Hill PUD, which would be located between Scribner and Five Mile Line Roads, north of Roberts Road. The 97-acre PUD, proposed by developer Joseph C. Andino, received favorable recommendations from the County Planning Council and (with stipulations) the town planning board.

The 38-acre $2.5 million shopping center proposed for the southeast corner of Plank and Five Mile Line roads. It would include 20 stores and a service station. Although it has been strongly opposed by several area residents, the center has received favorable recommendations from the county and (with stipulations) town boards. The proposal was made by Mrs. Ernest Loodadio.

The town board last night reserved decision on a proposed 188-acre PUD called Rock Lake east of Five Mile Line Road, north of Whalen Road and west of Baird Road on land owned by Dolomite Products Co., Inc. The 731-unit PUD received favorable recommendations from the county and (with stipulations) town boards.

The board issued special permits to a 150-acre, 18-hole golf course, par three course and driving range at Whalen and Webster-Fairport Nine Mile Point Roads. The public courses were proposed by Jamie Stanton.

The board also issued permits for a "private proprietary home for adults" on a five-acre site off of Five Mile Line Road and adjacent to Penfield High School. The 60-bed home was proposed by George E. Coy, 233 Brush Hollow Road, the proprietor for a similar home for the aged in Greece.

Permits also were issued for the reopening of a Gulf service station at Atlantic Ave. and Creek Street and for a car wash and gas station on Fairport-Webster Nine Mile Point Road, near Penfield Road.

The board also lowered the speed limits on Panorama Trail, between Dogwood and Atlantic Avenue, from 35 to 25 miles per hour and on Hermance Road from 40 to 25 miles per hour.

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EXHIBIT I

Penfield Zoning, PUD Changes May Meet Opposition Tonight

By BOB BECK

A lengthy meeting is expected tonight when the Penfield Town Board holds public hearings on two controversial rezoning requests and a proposed revision of the town's recently enacted Planned Unit Development (PUD) ordinance.

Town Supervisor Howard Frank said yesterday he expects between 200-300 persons at the hearings at 8 tonight in the Town Hall.

The most controversial hearing is expected to be a request to rezone 97 acres from residential to PUD for the Beacon Hills PUD. A petition with over 600 signatures opposing the project was presented to the town planning board six weeks ago.

Frank said the planning board favored the project, with the condition of reduced density.

The project, between Scribner and Five Mile Line roads north of Roberts Road, would consist of 180 single family residences, 92 duplex units, 90 townhouses, and 192 garden apartments. The proposed density is 4.5 units per acre.

Frank said the proposed revision in the PUD ordinance could dampen resident opposition, because it calls for a density of four units per acre and requires 50 per cent of the dwellings to be single family detached homes.

Beacon Hills is being developed by Joseph Andino and was designed by Jenkins-Wurzer-Starks, architects.

Frank said he thought much of the opposition to Beacon Hills is caused because of a misunderstanding of the town's zoning ordinances.

"All farm land is zoned residential," he said. "The town board's policy has been to leave it as such until someone presents a specific project for a piece of land and asks to have the land rezoned."

Two other PUDs under consideration by the board have not drawn much resident opposition, Frank said.

Mrs. Anne McNabb, co-chairman of the Metro Act Housing Task Force and a member Penfield Action for a Creative Tomorrow (PACT), said yesterday that both groups would be represented at the hearings to discuss the proposed PUD ordinance changes.

"There is concern that decreasing the density would decrease the flexibility of the PUD," she said. The concept of PUD is to obtain a mixture of low, middle and upper income housing.

"Fewer units will increase development costs," she added.

Louis Chiles, a spokesman for the architect firm, said that several changes had been made to the Beacon Hills project since public hearings began on it in January. These include withdrawing of a small grocery store, moving townhouses from the view of local residents' homes, and redesigning of the PUD to leave two large stands of trees undisturbed on the project site.

Chiles said all of the changes had been made in response to criticism from local residents.

The remaining hearing is for a "neighborhood" shopping center at Plank and Five Mile Line roads, about one-half mile from Beacon Hills. The 38-acre center is being proposed by Ernest Laudadio, and designed by the Jenkins firm.

All other public hearings, some residents have claimed the $2.5-million center is not needed.

BEST COPY AVAILABLE

PUD: Expense, Risk May Be Too Great

(Here's part 2 of two-part series on planned unit development (PUD) — what they are, their future and their problems.)

By MICHAEL BURKE

PUDs "may look nice, sound nice, and be nice," but many developers still will ignore them.

That's the opinion of Allen H. Temple, developer for Harrison Homes.

Few will argue with the concept of PUDs, says Temple, in theory, and on paper, they do catch the attitude in subdividing — property which should be developed in other ways.

"PUDs mean dropping all zoning restrictions a town has set up to protect itself," says David E. Jordan, Perinton councilman.

Developers say that to build a PUD and be creative in land use they can't be restricted by detailed or "built" zoning laws, Jordan said. "But that's just like saying 'go ahead and do what you want' to some builder and I don't think (this) is what can be explained.

"We can have good PUDs and still keep the current zoning laws on the books. With detailed zoning requirements matter is that not many developers are going to build them, because most aren't capable of building on this large a scale."

A "true" PUD (totally designed community with 100 to 1,000 acres) is the ideal of the planners, but it is not widely known or accepted. Sure... go ahead, try it in our immediate area, (an area zoned class "AA" residential), and if it proves to be a failure -- WHO SUFFERS ???.....

"true" — both single family homes and apartments.

The term PUD seems to have suffered from many loose interpretations.

"If you look around all you hear about is some new PUD going up," another developer said. "But the truth is that builders, like everyone else, have jumped on the terminology bandwagon and are calling every new family apartment or townhouse complex a PUD."

"Unless it contains single family homes it's not a true PUD," he said.

Some town board members and residents also have misconceptions about PUDs, says Webster Town Attorney Donald J. Siemers.

"Unless they realize what PUD really is and how it can benefit the community, many homeowners will think the concept involves more restrictions."

"That you might say a lack of restrictions on the builder's part has made it difficult for PUD to become widely known or accepted, he said.

To solve PUD's problems, Siemers believes it will take enlightened town boards who will work closely with professional planners.

"We can make the suburbs a bit more enjoyable and livable for a lot more people if we can solve the problems involved with PUD."

" PUD " -- a concept
yet not widely known
or accepted. Sure...
go ahead, try it in
our immediate area,
(an area zoned class
" AA " residential),
and if it proves to
be a failure -- WHO
SUFFERS ???.....

A "true" PUD (totally designed
community with 100 to 1,000
acres).....May we offer
an alternative ? Why not
construct a "true" PUD in an
appropriate area (one not zoned
"AA" or built around it with
class "AA" homes already).....
Allow individuals to move into
the PUD and build around the
PUD, by choice ?????

Trouble on Horizon for PUD Zoning?

Rochester Democrat and Chronicle, Sunday, Sept. 19, 1971

By MARK STRAUB

The concept of planned unit development (PUD) has no dedicated enemies in Monroe County.

It is widely and warmly embraced throughout the suburbs as the concept that will guide future land use in Monroe County.

Town leaders will tell you that the "flexibility" permitted the developer under PUD allows him to "redeem costs" and make available "housing for all economic levels."

But now, a little more than a year after the planned unit development concept emerged in Monroe County, the unanimous support it had in its conceptual stages is breaking down.

Planned unit development have passed various stages of town approval in Henrietta, Webster and Pittsford, and several other towns have adopted or are in the process of adopting planned unit development laws.

But Pittsford, which was the first community to adopt a planned unit development law, in May 1969, may be signaling an early retreat from flexible planned unit development.

Most simply, planned unit development is the grouping of all varieties of housing — single family, duplexes, town houses and apartments — in a single development. Larger projects, like the 1,500-acre Riverton project proposed for Henrietta and Wheatland, will incorporate industrial, commercial and recreational development.

Ideologically, planned unit development has emerged as one solution to economic, social and ecological ills.

Because of the high cost of land and construction, the suburban "dream house" is less and less affordable. By clustering housing, the developer can reduce his costs and rent or sell his properties at relatively low prices.

Thus to many human relations groups, planned unit development has become the most harmonious and economically feasible way to bring low-income groups into the wealthier suburbs or, as they said in the '60s, integrate the suburbs.

Pittsford probably will reduce in the next few weeks the maximum density permitted in planned unit developments from 6 units to 4 units per acre while requiring that half the units be single family detached dwellings.

Pittsford Supervisor Howard J. Frank said the planned unit developments being proposed in Pittsford are often 80 per cent apartments and don't coincide with the town board's conception of the proper housing mixture.

But getting closer to the suburban dilemma, Frank admitted, "You've got problems when you have apartments and you're putting them in residential AA areas next to $40,000 homes."

If Pittsford is signaling a retreat, it is in the face of pressure from the homeowners (in an election year).

While the professionals and civic leaders like architect Lewis Childs Jr. see planned unit development as "an alternative to the problem of suburban sprawl, the widespread lack of recreation and the aesthetic butchery of some suburban housing tracts, the suburban resident is beginning to view it as a glorified apartment project.

To the more rational, this means more children, more traffic and more taxes. But often more important, planned unit development is a change in the type of suburbs that the residents chose to live in when they bought their homes five to 10 years before.

And finally, the irrational fear of change in the form of integration of some of Rochester's white suburbs plagues planned unit development as it has and will any innovative housing program for the suburbs that deviates from the single-family norm.

At an Aug. 16 public hearing on amending Pittsford's planned unit development law, the Pittsford Town Board heard residents warn that "where you have high density, you have a slum" and "they will have two, three and four children for every bedroom."

The net effect of reducing the maximum density of Pittsford planned unit developments and requiring that half the units be single-family homes will be to raise building costs and make it more difficult for lower income groups to afford the move into the suburbs. This runs counter to the rhetoric sounded by town officials when they first considered planned unit development.

Anthony Calderone, secretary of Stanndco Developers Inc., warned that the effect of the amended law would be to create developments that "look more cluttered at a lower density."

Calderone said the effect of the amended law on a 110-acre Stanndco project that has already received preliminary approval in Pittsford would be to reduce the number of units from 518 to 414 while increasing the number of buildings from 140 to 230.

The amended law would engender elimination from the project of a mid-rise building for the elderly while raising rents between $5 and $15 a month in rental units and the sale price of homes between $500 and $1,200, he said.

Finally, for the citizens worried about taxes, the amended law will create Stanndco to develop a project that will yield an more school children than the original while producing $126 less in tax revenue per child, Calderone said.

The Monroe County Housing Council, in a prepared statement, fiercely attacked the proposed Pittsford ammendment, calling it "foolhardy to impose even more stringent regulations upon the one mode of development that has

Continued on Page 12B

Planned Unit Development concept faces erosion, despite lip service

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EXHIBIT I

IF THIS IS OUR "NEW TAG" — WILL OUR TOWNSHIP BEGIN TO GO DOWNHILL AS OTHERS HAVE IN THE PAST?

WILL OUR PROPERTIES LOSE THEIR VALUE BECAUSE OF THIS? → HOMES UNDER $25,000 IN THIS DAY AND AGE?

WILL THIS CONCEPT BRING "TRANSIENT PEOPLE" TO OUR COMMUNITY? → APARTMENTS..... CONDOMINIUMS; HOW LONG WILL THEY BE MAINTAINED AND AT WHAT LEVEL OF STANDARDS?

PLEASE PLAN TO ATTEND THIS "PUBLIC HEARING" AND PROTECT YOUR INVESTMENTS.

ROCHESTER, N. Y., TUESDAY, MARCH 31, 1970

Penfield's Aim: Lower Home-Tag

By DAN VAN ATTA

Penfield's Town Board is working on a new ordinance which it hopes will overthrow hard builders in dooming "moderate income housing" in the town, Supervisor Howard J. Frank said last night.

Called Planned Unit Development, Frank said the land law will "allow developers to take the gravy on their apartments, but also build houses to sell for under $25,000—that's the theory."

Despite a similar provision that was approved as part of the new Webster zoning ordinance last June, Frank said he believes the Penfield plan may be the first of its kind to be adopted in New York State.

"It will allow a developer to cluster a variety of structures —apartments, condominiums, and single family dwellings— without having to go to the town for approval for all the different zonings."

Frank said the proposed ordinance will make the following demands of developers going into Planned Unit Development:

- Each site must be at least 100 acres in size.
- "Financial liabilities and individual contracts" must be adhered to, providing that the moderate income housing keep pace with other aspects of the development.
- "At least 20 per cent of the development be devoted to park land."
- At least 30 per cent of the development be in single family dwellings.
- Higher income structures be constructed around the exterior of the development to maintain the valuation of nearby properties.

"We're trying to achieve low or moderate income housing, which seems to be in great demand, without many subsidies," Frank said.

"I think private enterprise is still the best means—the developers can do the job if they want to."

Frank said there are "two or three Penfield developers" who have expressed interest in building such a development in the town, but he would not say who they are at this time.

The town attorney presently is drawing up the ordinance, and the "public hearing will be in late April or early May."

In addition, a Syracuse architect will sketch what the development might look like, at "a random site in town" for a fee of from $1,000 to $1,500.

WHO ?

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EXHIBIT I

THE ATTACHED PAGES ARE FOR YOU ----------

****

NORTHWEST PENFIELD HOMEOWNERS

****

They will affect you next Monday nite, May 10, 1971.

Robert Road
Five Mile Line Road
Scribner Road
Old Barn Circle
Timberline Drive
Bella Drive
Plank Road
Embury Road
Shoecraft Road
Stockton Lane
Hitchcock Lane
Rodney Lane
Alberta Drive
Witherspoon Lane
Havenshire Road
Longsworth Drive
Belvista Drive
Browncroft Blvd
Cityview

REMEMBER THE DATE

1. Are you concerned about your personal property values ?

2. What about your immediate community and neighborhood ?

3. Why did you move into the house you presently call your HOME ?

   a. Was it because of the area ?
   b. Did the type of housing appeal to you ?

EXHIBIT I

c. Do you like the wide open spaces ?
d. Do you work hard to maintain your home ?
(Certainly, we all do)
e. You apparently enjoy suburban living, you're proud of your home and family.

******** 4. Would you object to or might you have second thoughts about approximately 500 families crowding into approximately 100 acres of land to be located in your immediate area ?

******** 5. Do you want APARTMENTS and TOWNE HOUSES to be constructed in your immediate class "AA" zoned residential community ?

Well.....its being proposed next Monday nite, May 10, 1971

TIME: 8:00 p.m.
PLACE: Penfield Town Hall Auditorium
LOCATION: Atlantic Avenue

YOU are urged to attend this public hearing .... Get the facts first hand; not by rumor, heresay or misrepresentation.....

PLEASE READ ON .....

EXHIBIT I

******* B E W A R E ! ! ! ! *******

P E N F I E L D AND W E B S T E R

HOMEOWNERS.....

The attached page is a copy of an article which appeared in the Tuesday March 31st Democrat and Chronicle .....
It effects you ---- and could result in low cost housing for the Webster/Penfield area.....APARTMENTS --------
CONDOMINIUMS ------- TENEMENTS -------
Property valued under $25,000.00 in this day and age??????????????????????

WOULD YOU SUFFER A PERSONAL LOSS?????

Please read the attached article and plan to attend the public hearing scheduled to be held later this month ..... Please check your local papers for the exact

date, or call your township requesting information relative to this re-zoning.... PROTECT YOUR HOME AND PROPERTY INVESTMENTS !!!!!! Thank you .....

Plan on participating before it's too late.....

Will the standards of our fine community be lowered if we allow low cost housing to be built?

Look around at other communities and see what low cost housing has accomplished ???????????

SINCERELY,

A CONCERNED GROUP OF PENFIELD AND WEBSTER HOMEOWNERS

NORTHWEST PENFIELD HOMEOWNERS ASSOCIATION NEWSLETTER # 9

IF..... you live anywhere in Penfield, this Newsletter message is for you.
..... you have open land anywhere around your present place of residence, please read the following statement carefully.
..... you're concerned about commercial development and the placement of 4 lane highways near your home, please read on.

For approximately three (3) years we have begged and pleaded with the present Penfield Republican Town officials to preserve and develop our area in an orderly fashion. We have been ignored, frustrated and publicly humiliated at recent Town Board meetings. We are being governed by a handful of elected individuals (the present Penfield Town officials) who because of their positio and authority have chosen to ignore the majority (see number 2 below) WHY? Our questions and defenses go unanswered.....So much CONTROVERSY; so much CONFUSION.....
OUR HOMEOWNERS ASSOCIATION has never been nor are we presently politically affiliated.....

We now have the opportunity to be heard and we ask all of you to help us - HELP YOURSELVES IF YOU CARE and want a fresh and needed change in Penfield Town government. We have receive the following statement from the Democratic party who have requested the opportunity to serv our town..... Why don't we give them a chance?....."

The APARTMENT and TOWNE HOUSE PUD application.....

The SHOPPING CENTER How long before it will come up again? When will it pass? What WILL follow?

Where will the 4 lane highways begin and end?

This could happen in YOUR AREA..... None of us are protected under the present zoning ordinances.....

MORE COMMERCIAL and 4 lane highways....

UPDATE the Master Plan.. it is 10 yrs behind the times...

TAX ASSESSMENTS....
SCHOOL BUDGETS.....
POLICE PROTECTION..
YOUTH PROGRAMS.....
RECREATION AREAS...

Why are we waiting; why can't we start solving some of these PROBLEMS?

STATEMENT by the Democratic Candidates for Penfield Town Offices

We, the Democratic Candidates for Penfield Town Offices, support the residents in the ar of the Beacon Hills subdivision in their opposition to this so-called PUD.....
We support the residents in their opposition to the proposed shopping center at the corner of Five Mile Line and Plank Roads.....
We support the residents in their opposition to the widening to four lanes of Five Mile Line Road, Plank Road and Creek Street.....
The REASONS for this position are as follows:

1. The Beacon Hills project is in an area zoned AA and in which there is already extensive AA development. The question of how this project will affect the investment homeowners now have in their homes HAS NOT BEEN ANSWERED.
2. Neither the Town nor the developer have dealt with the residents in a fair and equitable fashion A PETITION OPPOSING THE PROJECT, bearing the names of 818 residents representing 90% of those affected was IGNORED BY TOWN OFFICIALS. The builder offered a compromise which would permit the building of AA, A, and B zone lots. The residents were willing to consider the offer but the developer withdrew it before it could be acted upon.
3. The procedures used in the Public Hearing when the rezoning was considered are in question. Due to the crowded agenda, the hearing did not begin until 12:30 a.m, August 18, 1971 whereas the hearing was called for August 17, 1971. While this may appear a trivial point, the fact is that many residents had to leave the hearing and all who remained were weary. It was not the appropriate time for a hearing.
4. The site of the PROPOSED SHOPPING CENTER at Five Mile Line and Plank Roads is within one mile of Route 250 and Plank Road which already has the beginnings of Commercial development. There is no current community need for a shopping center at this site.
5. Because of the RESIDENTIAL NATURE OF THE AREA, 4 lane highways are NOT NECESSARY and, indeed may be a HAZARD. No existing traffic problems will be solved by having a four lane highway. In fact, such improvements will probably create traffic.

The policy of the incumbent administration to zone everything AA and then spot rezone as developers present plans for APARTMENTS, COMMERCIAL developments and the like IS NOT PLANNED PROGRESS, provides NO PROTECTION FOR THE RESIDENTS and leads to unnecessary CONFUSION and CONCERN. This policy must be abandoned. The Master Plan must be UPDATED so that the Town of Penfield can be well planned and we can provide a good balance between housing, commercial developments and recreation areas in order that Penfield can remain a pleasant place to live. After all, living is the business of Penfield.

SIGNED..... Irene Gossin, Supervisor Candidate
Frank Fallieberck, Council Candidate
Don Hare, Council Candidate
Lin Embrey, Council Candidate
John Burns, Town Clerk Candidate

..... We're asking all of you as Penfield homeowners and voters .....
..... PLEASE VOTE ROW B --- ALL THE WAY --- on ELECTION DAY, next Tuesday November 2nd GIVE THEM THE OPPORTUNITY TO SERVE US.....

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EXHIBIT I

A COMPLETE LIST OF NWPHA AREA REPRESENTATIVES ACCOMPANIED WITH THEIR RESPECTIVE TELEPHONE NUMBERS IS FURNISHED FOR YOUR INFORMATION:

Bill Buchholz, Jr. (Shoecraft Road Area)..... 671 - 1868

Carl Cooman Jr. (Five Mile Line Road Area). 671 - 1907

Joe DePaolis (Independence Ridge area).... 671 - 5724

Harry Esposito (Old Barn Circle - Timberline Area)671 - 4975

Jim Ewing (Robert Road Area)... 671 - 5286

Sal Fico (Independence Ridge Area)..... 671 - 5737

Joe Frate (Independence Ridge Area)..... 671 - 7482

Bill Lippa (Independence Ridge Area)..... 671 - 4354

Paul Mandina (Five Mile Line Road Area)..... 671 - 4260

Charley Roth (Scribner Road Area)..... 671 - 4217

Dorothy Sullivan (Robert Road Area)..... 671 - 3385

Jack VanVeen (Embury Road Area)..... 671 - 6360

EXHIBIT I

Bob Vincent (Embury Road Area).. 671 - 4172

Bruce Wells (Robert Road Area).. 671 - 3585

Walt White (Old Barn Circle - Timberline Area).... 671 - 3082

John Wojciechowski (Old Barn Circle - Timberline Area).....671 - 7594

***** The above listing is current as of this date and represents total coverage by area of the NORTHWEST PENFIELD HOMEOWNERS ASSOCIATION (NWPHA).....

Should you have any questions or any pertinent information to provide NWPHA with; or should you desire to be a member of this association, please contact your appropriate area representative.

++

The elected and appointed representatives of your township are ready and willing to hear your opinions, ideas and criticisms. RESIDENT HOMEOWNERS opposed to the construction and placement of a PUD in this area are encouraged to be present and take part in the formal public hearing regarding this application.....

PLAN TO ATTEND THIS HEARING AND MAKE YOUR FEELINGS KNOWN.....

MONDAY MAY 10, 1971.....8:00 p.m.

EXHIBIT I

********* NORTHWEST PENFIELD HOMEOWNERS ASSOCIATION NEWSLETTER # 7 *********

HERE WE GO AGAIN.....

"Good old Beacon Hills" (that area bounded by Scribner Road, Five Mile Line Road and Robert Road)

** Next Monday nite, May 10, 1971 at 8:00 p. m. in the Penfield Town Hall auditorium located on Atlantic Avenue application is being made to the Penfield Planning Board for sketch plan approval of a proposed PUD.....

YOUR PRESENCE IS NECESSARY AT THIS HEARING.....IN ORDER THAT YOU VOICE YOUR OPINION AND.....PROTECT YOUR PERSONAL PROPERTY VALUES.....

** This area is again faced with the possibility of the construction and placement of APARTMENTS and TOWNE HOUSES in the center of an area directly bounded by class " AA " housing on all sides.....

Will the development of this property lead to the devaluation of your own already existent PERSONAL PROPERTY???

**** Just where do we stand ?????????

Plan on participating before it's TOO LATE.....

****

EXHIBIT I

The following persons addressed the Board:

Mrs. John Bundschuh,	Representing the Penfield League of Women Voters.
Mr. Jonathan Post	Attorney for Mr.Audino
Mrs. George Gulick	75 Huntington Meadow
Mrs. Raymond Kuschel	155 St.James Dr.
Mr. Donald Sirianni	9 Christine Circle
Mr. Paul Mandina	1475 Five Mile Line Rd.
Myron Starks,	Architect from Jenkins, Wurzer-Starks
Mr. Michael Ireland	111 BelVista Dr.
George Shaw	Chairman Penfield Planning Board
Mrs. Shirley Mulig	164 St. James Dr.
Mr. Jim Brooks	795 Embury Rd.
Mr. Robert Herman	887 Hillary Lane
Richard Handler,	Architects from Handler and Grosso (Representing Dolomite Co.)
Wallace Ashnault	Attorney
Mrs. Ann McNabb	1996 Penfield Rd.
Mr. Tony Caldrone	Secretary Stanndco Developers
Mr. John Hostutler	34 Jackson Rd.Ext.
Mr. John Effinger	131 St.James Dr.
Mr. John Bickmore	18849 Blossom Rd
Mr. Robert Clifford	140 Stokton Lane
Janet Gray	35 Robert Rd.
Michelle Mandina	1470 Five Mile Line Rd.
Mrs. Irene Gossin	17 Parkview Dr.

There being no one else who wished to be heard, Mr. Frank declared the hearing closed

VERBATUM ON FILE IN TOWN CLERKS OFFICE
****

EXHIBIT I

The Town Clerk was requested by the Supervisor to read the Notice of the Hearing as published in the Penfield Republican, the official newspaper, and the Penfield Press on August 5, 1971 in connection with the rezoning of 38 acres of land located on the southeast corner of Plank Road and Five Mile Line Rd. from Residential "AA" to Commercial to permit the construction of a shopping Plaza and Motor Vehicle Supply Station.

Mr. Frank asked Mr. Callaghan if the matter was properly before the Board and Mr. Callaghan said that it was.

Vote of the Board

Howard Frank	"Aye"
Walter W. Peter	"Aye"
McFall Kerbey Jr.	"Aye"
T.Frank Lonergan	"Aye"
Gordon Scott	"Aye"

Upon the question all members of the Board having voted "Aye", the recommendation was declared adopted.

#4 This committee recommends the appointment of the following Dog Enumerators for the enumeration of the dogs in the Town of Penfield for the year 1972."

Edward Welch — Section # 1
1382 Creek St.
Webster, U.Y.

Mrs. Mildred Huehn — Section # 2
1350 Salt Rd
Webster, N.Y.

EXHIBIT I

Mr. Norman Sehm — Section # 3
38 Aspen Dr.
Rochester, N.Y.14625

Mrs. Marguerite Gray — Section # 4
1322 Hatch Rd.
Webster, N.Y.14580

It was moved by Councilman T. Frank Lonergan and seconded by Councilman McFall Kerbey Jr. that recommendation # 4 be adopted as submitted by the committee.
Vote of the Board

Howard Frank	"Aye"
Walter W. Peter	"Aye"
McFall Kerbey Jr.	"Aye"
T.Frank Lonergan	"Aye"
Gordon Scott	"Aye"

Upon the question all members of the Board having voted "Aye" the recommendation # 4 be adopted.

#5 In connection with the hearing held earlier in the meeting, concerning density limitations for PUD, a discussion was held by the members of the Board after which the following recommendation was adopted.
RESOLVED, by the Town Board of the Town of Penfield that the amended Zoning Ordinance of the Town of Penfield be, and the same hereby is, amended as follows:
Section 29-11.21 of the Amended Zoning Ordinance of the Town of Penfield is amended by adding thereto Paragraphs (5) and (6) to Sub-section D thereof as follows:
(5) Notwithstanding the several average density limitations hereinafter provided, the average density for the entire PUD shall

EXHIBIT I

not exceed four (4) dwelling units per acre.
(6) As a further standard and limitation on the permitted uses within a PUD District, the ratio of Multiple Dwelling units and Duplex (twoFamily) units to singe family detached dwelling units shall not exceed one (1) for one (1).
This amendment shall take effect immediately upon posting and publishing as required by law.

It was moved by Councilman T. Frank Lonergan and seconded by Councilman Walter Peter that recommendation #5 be adopted as submitted by the committee.
Vote of the Board

Howard Frank	"Aye"
Walter W. Peter	"Aye"
McFall Kerbey Jr.	"Nay"
T. Frank Lonergan	"Aye"
Gordon Scott	"Aye"

Upon the question a majority of the members of the Board having voted "Aye" the resolution was declared adopted.
****

Recreation and Social Services Committee

NOTICE OF ADOPTION
OF AMENDMENT TO THE
PENFIELD ZONING ORDINANCE

PLEASE TAKE NOTICE that at a regular meeting of the Penfield Town Board, held on September 7, 1971, an amendment to the Zoning Ordinance and to the official Zoning Map of the Town of Penfield was duly adopted. Such amendment as adopted, is as follows:

WHEREAS JENKINS - WURZER - STARKS, Architects and Planners, 1545 East Avenue, Rochester, New York, on behalf of the owners have made application for the rezoning of a parcel of land hereinafter described from "Residential AA" District to "Planned Unit Development" District, and,

WHEREAS the Planning Board has reviewed the proposal for the Planned Unit Development and has rendered a

favorable report to the Town Board with the proviso that the applicant reduce the density from that proposed, and,

WHEREAS the Monroe County Planning Council has considered the proposal for a Planned Unit Development on the premises hereinafter described and has recommended approval, and

WHEREAS a public hearing was duly called and held on August 17, 1971, at 8:00 O'clock P.M. at the Town Hall, Penfield, New York, to consider the application for rezoning, and,

WHEREAS it appears that the proposed Planned Unit Development for the premises hereinafter described falls within the intent and objectives of the Planned Unit Development District Ordinance of the Town, as amended, and would be in the best interest of the Town,

EXHIBIT J

NOW THEREFORE, BE IT ORDAINED, by the Town Board of the Town of Penfield that the Zoning Ordinances and the official Zoning Map of the said Town be and the same hereby is amended as follows:

SECTION 1. The official Zoning Map of the Town of Penfield is amended to transfer from "Residential AA" District to "Planned Unit Development" District the following described premises:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe and State of New York, and being in Town Lot #55, more particularly bounded and described as follows: Commencing at a point in the center line of Scribner Road, which point is the southwest corner of premises conveyed to the grantee by deed dated June 22, 1966 and recorded in the Monroe County Clerk's Office in Liber 3743 of Deeds at page 15, which point is also the southwest corner of premises conveyed to Stephen Leake by warranty deed dated May 5, 1836, and recorded in Monroe County Clerk's office in Liber 36 of Deeds at page 263; thence easterly in the south line of the premises conveyed to the grantee as aforesaid, 32 chains 39 links; running thence south along the west line of premises conveyed to said Stephen Leake,

EXHIBIT J

7 chains to a point in the north line of premises formerly owned by Calvin Rundel; thence west in the said Rundel's north line, a distance of 15 chains 55 links to the northwest corner owned by said Calvin Rundel; thence south in said Rundel's west line 11 chains 89 links; thence west parallel with the line of town lots 16 chains 84 links to a point in the center line of Scribner Road; thence north in the center line of Scribner Road 18 chains and 79 links more or less to the place of beginning.

Excepting therefrom, however, so much of the described premises as were conveyed by Luther C. Sampson and Rebecca C. Sampson to John W. Sampson by warranty deed dated March 10, 1964 and recorded in the Monroe County Clerk's office in Liber 207 of Deeds at page 206.

Being part of the same premises conveyed to Luther C. Sampson and Helen M. Sampson by warranty deed dated April 22, 1935 and recorded in the Monroe County Clerk's office in Liber 1761 of Deeds at page 7.

All that tract or parcel of land situate, lying and being in the Town of Penfield, County of Monroe and State of New York, and being part of town lot #56, more particularly bounded and described as follows: Commencing at a point in the center line of Scribner Road measured 1773.58 feet north of the intersection of the center lines of Scribner Road and Embury Road, which point is also in the south line of premises conveyed to Luther

Sampson by warranty deed dated March 5, 1853 and recorded in Monroe County Clerk's office in Liber 163 of Deeds at page 100; thence westerly at an included angle of 89° 35' 30" a distance of 723.57 feet to a point; thence northerly at an included angle of 90° 24' 30", a distance of 455.40 feet to a point; thence westerly at an excluded angle of 90° 25' 00", a distance of 1859.79 feet to an iron pin set in the west line of town lot #56; thence northerly at an included angle of 90° 44' 30" along the west line of said town lot #56, a distance of 467.58 feet to an iron pin; thence easterly at an included angle of 89° 52' 20", a distance of 2585.96 feet to a point in the center line of Scribner Road; thence south along the center line of Scribner Road, a distance of 950.76 feet to the point and place of beginning.

All as shown on a map made by Lewis E. Kohl, Inc. dated March 25, 1968.

THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe, State of New York, known as Town Lot 55, Township 13, Range 4, more particularly described as follows:

COMMENCING at a point in the center line of Five Mile Line Road at the southeast corner of premises conveyed to the party of the first part by deed recorded in Monroe County Clerk's Office in Liber 3294 of Deeds, at page 507, which point of beginning is also the northeast corner of premises owned by the party of the second part; thence (1) westerly at

an included angle of 90° 14' 46" along the north line of premises owned by the party of the second part a distance of 2628.12 feet to a point in the center line of Scribner Road, which point is also the northwest corner of premises owned by the party of the second part; thence (2) northerly along the center line of Scribner Road a distance of 362.50 feet; thence (3) easterly at an included angle of 89° 46' 16" a distance of 1246.07 feet to an iron pin; thence (4) northerly at an included angle of 270° 13' 44" a distance of 350.00 feet to an iron pin; thence (5) easterly at an included angle of 89° 46' 16" a distance of 442.81 feet to a point; thence (6) southerly at an included angle of 89° 45' 14" a distance of 672.50 feet to a point; thence (7) easterly at an included angle of 270° 14' 46" a distance of 933.00 feet to the center line of Five Mile Line Road; thence (8) southerly along the center line of Five Mile Line Road a distance of 40 feet to the point and place of beginning.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe and State of New York, being the south one-half of the south part of the north division of Town Lot 55 bounded as follows: Beginning in the east line of said north division in the center of the highway known as the Five Mile Line Road at a point ten (10) chains and eighty-one(81) links distant south of the southeast corner of one hundred (100) acres of land taken from the north division formerly owned by

Stephen Leake;from thence running west thirty-nine (39) chains and eighty-two (82) links to the west line of said division being also the center of the Scribner Road so called; thence running south in said west line and the center of the Scribner Road ten (10) chains and eighty-one (81) links to the south line of said south part of the north division of said Lot No.55; thence east along said south line thirty-nine (39) chains and eighty-two (82) links to the center of the said Five Mile Line Road; thence north along said center of road ten (10) chains and eighty-one (81) links to the place of beginning and containing forty-three (43) acres and thirty-seven (37) rods of land, more or less.

SECTION 2. This amendment is conditioned upon the following:

a) The modification of the plan for the Planned Unit Development to conform to the density limitation contained in the Planned Unit Development Ordinance, as amended.

b) The execution of an agreement between the developer and the TOWN OF PENFIELD which defines (1) the responsibilities of the developer, the owners

and occupants of the developed lands, and the TOWN OF PENFIELD in the improvement, operation and maintenance of common properties and facilities including private streets, drives, service and parking areas and recreation and open-space areas, and (2) the guarantee by which performance will be insured.

c) Payment of a sanitary sewer entrance fee for each unit in an amount to be determined by the Town Board and which will reflect the development at a greater density of PUD than the average density of a residential development and which will also reflect the need for additional sewerage capacity before the approval of the site plan for development of the planned fourth stage.

d) The filing of a satisfactory

letter of credit in an amount sufficient to cover the estimated costs as determined by the Town Engineer of roads, gutters, side-walks, sewers and sewer systems, drains and drainage systems, lighting systems, water systems, landscaping and sewer entrance fees.

e) The securing of a site plan approval in accordance with all provisions of the Zoning Ordinance with respect to a Planned Unit Developm ent District and the execution of any agreements between the developer and the TOWN OF PENFIELD required by the Planning Board to insure the construction of the development according to the site plan and in the chronological order of planned construction.

SECTION 3. This amendment shall take effect immediately upon posting and

publishing as required by law.

Dated at Penfield, New York

September 14, 1971

Earl Rapp,
Town Clerk Penfield
New York

EXHIBIT K

RESOLUTION

PENFIELD TOWN BOARD JANUARY 3, 1972

WHEREAS the Town Board of the Town of Penfield heretofore and on the 7th day of September, 1971 adopted an Ordinance amending the Zoning Ordinance and the official Zoning Map of the Town of Penfield by which Ordinance the premises hereinafter described were transferred from "Residential AA" District to "Planned Unit Development" District, and

WHEREAS such Ordinance was adopted over the objections and protests of a large number of town residents, and

WHEREAS a public controversy arose immediately following the adoption of such Ordinance as to the wisdom and propriety of the rezoning accomplished by such Ordinance, and

EXHIBIT K

WHEREAS by reason of all the foregoing the present Town Board of the Town of Penfield feels that there is a serious question as to whether the public health, safety and welfare of the residents of the Town of Penfield has in fact been served by the enactment of said Ordinance, and

WHEREAS by reason of all the foregoing the present Town Board of the Town of Penfield feels that there is a serious question as to whether the considerations for long range planning in the Town of Penfield have in fact been served by the enactment of said Ordinance, and

WHEREAS therefore the Town Board of the Town of Penfield wishes to review, an if so advised, repeal the said Ordinance, now

EXHIBIT K

therefore be it

RESOLVED that the following proposed Ordinance hereby be referred to the Planning Board for report to the Town Board: "NOW THEREFORE, BE IT ORDAINED, by the Town Board of the Town of Penfield that the Zoning Ordinance and the official Zoning Map of the said Town by and the same hereby is amended as follows:

Section 1. The Ordinance adopted by the Town Board of the Town of Penfield on September 7, 1971 amending the Zoning Ordinance and the official Zoning Map of the Town of Penfield by transferring the premises hereinafter described from "Residential AA" District to "Planned Unit Development" District be and it hereby is repealed.

EXHIBIT K

Section 2. The official Zoning Map of the Town of Penfield is amended to transfer from "Planned Unit Development" District to "Residential AA" District following described premises:

> ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe and State of New York, and being in Town Lot #55, more particularly bounded and described as follows: Commencing at a point in the center line of Scribner Road, which point is the southwest corner of premises conveyed to the grantee by deed dated June 22, 1966 and recorded in the Monroe County Clerk's Office in Liber 3743 of Deeds at page 15, which point is also the southwest corner of premises conveyed to Stephen Leake by warranty deed dated May 5, 1836, and recorded in Monroe County Clerk's Office in Liber 36 of Deeds at page 263; thence easterly in the south line of the premises conveyed to the grantee as aforesaid, 32 chains 39 links; running thence south along the west line of premises conveyed to said Stephen Leake,

EXHIBIT K

7 chains to a point in the north line of premises formerly owned by Calvin Rundel; thence west in the said Rundel's north line, a distance of 15 chains 55 links to the northwest corner owned by said Calvin Rundel; thence south in said Rundel's west line 11 chains 89 links; thence west parallel with the line of town lots 16 chains 84 links to a point in the center line of Scribner Road; thence north in the center line of Scribner Road 18 chains and 79 links more or less to the place of beginning.

Excepting therefrom however, so much of the described premises as were conveyed by Luther C. Sampson and Rebecca C. Sampson to John W. Sampson by warranty deed dated March 10, 1864 and recorded in the Monroe County Clerk's Office in Liber 207 of Deeds at page 206.

Being part of the same premises conveyed to Luther C. Sampson and Helen M. Sampson by warranty deed dated April 22, 1935 and recorded in the Monroe County Clerk's Office in Liber 1761 of Deeds at page 7.

EXHIBIT K

All that tract or parcel of land situate, lying and being in the Town of Penfield, County of Monroe and State of New York, and being part of town lot #56, more particularly bounded and described as follows: Commencing at a point in the center line of Scribner Road measured 1773.58 feet north of the intersection of the center lines of Scribner Road and Embury Road, which point is also in the south line of premises conveyed to Luther Sampson by warranty deed dated March 5, 1853 and recorded in Monroe County Clerk's Office in Liber 163 of Deeds at page 100; thence westerly at an included angle of 89°35' 30" a distance of 723.57 feet to a point; thence northerly at an included angle 90°24'30", a distance of 455.40 feet to a point; thence westerly at an excluded angle of 90° 25' 00", a distance of 1859.79 feet to an iron pin set in the west line of town lot #56; thence northerly at an included angle of 90°44'30" along the west line of said town lot #56, a distance of 467.58 feet to an iron pin; thence easterly at an included angle of 89°52'20", a distance of 2585.96 feet to a point in the center line of Scribner Road; thence south along the

EXHIBIT K

center line of Scribner Road, a distance of 950.76 feet to the point and place of beginning.

All as shown on a map made by Lewis E. Kohl, Inc., dated March 25, 1968.

THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe, State of New York, known as Town Lot 55, Township 13, Range 4, more particularly described as follows:

COMMENCING at a point in the center line of Five Mile Line Road at the southeast corner of premises conveyed to the party of the first part by deed recorded in Monroe County Clerk's Office in Liber 3294 of Deeds, at page 507, which point of beginning is also the northeast corner of premises owned by the party of the second part; thence (1) westerly at an included angle of 90°14'46" along the north line of premises owned by the party of the second part a distance of 2628.12 feet to a point in the center line of Scribner Road, which point is also the northwest corner of the premises owned by the party of the second part; thence (2) northerly along the center line

EXHIBIT K

of Scribner Road a distance of 362.50 feet; thence (3) easterly at an included angle of 89°46'16" a distance of 1246.07 feet to an iron pin; thence (4) northerly at an included angle of 270°13'44" a distance of 350.00 feet to an iron pin; thence (5) easterly at an included angle of 89°46'16" a distance of 442.81 feet to a point; thence (6) southerly at an included angle of 89°45'14" a distance of 672.50 feet to a point; thence (7) easterly at an included angle of 270°14'46" a distance of 933.00 feet to the center line of Five Mile Line Road; thence (8) southerly along the center line of Five Mile Line Road a distance of 40 feet to the point and place of beginning.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe and State of New York, being the south one-half of the south part of the north division of Town Lot 55 bounded as follows: Beginning in the east line of said north division in the center of the highway known as the Five Mile Line Road at a point ten (10) chains and eighty-one (81) links distant south of the southeast

EXHIBIT K

corner of one hundred (100) acres of land taken from the north division formerly owned by Stephen Leake; from thence running west thirty-nine (39) chains and eighty-two (82) links to the west line of said division being also the center of the Scribner Road so called; thence running south in said west line and the center of the Scribner Road ten (10) chains and eighty-one (81) links to the south line of the said south part of the north division of said Lot No. 55; thence east along said south line thirty-nine (39) chains and eighty-two (82) links to the center of the said Five Mile Line Road; thence north along said center of road ten (10) chains and eighty-one (81) links to the place of beginning and containing forty-three (43) acres and thirty-seven (37) rods of land, more or less.

Section 3. This Ordinance shall take effect immediately upon publication and posting as required by law, and it is hereby

EXHIBIT K

FURTHER RESOLVED that said proposed amended Ordinance hereby be referred to the Monroe County Planning Council for its recommendations, and that it be

FURTHER RESOLVED that the Town Clerk be and he hereby is directed to forward a copy of this resolution, certified by said Town Clerk under the corporate seal of the Town of Penfield and showing the date of its passage and entry in the minutes, to Jenkins-Wurzer-Starks, Architects and Planners, 1545 East Avenue, Rochester, New York 14610, who had made application on behalf of the owners of the aforesaid described premises and a copy to Joseph C. Audino, 108 Keyel Drive, Rochester, New York 14625.

EXHIBIT L

Zoning Referral #PN-67
Town Board
Town of Penfield
February 2, 1972

RE: Application of Town Board for rezoning of a P.U.D. (Scribner to Five Mile Line Road) to "AA"

The Monroe County Executive Committee recommends disapproval of PN-67. This is a referral requesting a zoning change from Planned Unit Development to AA Residential in the area of Scribner Road and Five Mile Line Road. The following arguments are submitted for consideration:

1. The resolution does not develop substantive argument to refute the recommendation of the Planning Council in the earlier referral PN-47 dated June 24, 1971. (See copy of the recommendation attached.)

2. The resolution does not allege that this P.U.D. is contrary to the Town P.U.D. Ordinance.

3. The Planning Council has sponsored the development of model ordinances to encourage the variety of housing types that are made available through this legislation. If the Council would approve the proposed rezoning it would be denying the broad range of housing types and price ranges it has intended to

EXHIBIT L

promote, which would have a detrimental effect on the state of housing in Monroe County.

MFR:met

EXHIBIT M

Penfield Press
5/25/72

Sewer Moratorium Affects Applications

The Penfield Planning Board met Monday evening, May 22, in the Penfield Town Hall with all members present -- chairman George Shaw, Timothy Westbrook, James Hartman, John D. Williams, and Richard Ada. Also present were Director of Public Works Robert Feller, Engineer John Karle; Attorney Samuel D'Attilo; and secretary Mrs. Tompkins.

The moratorium on building in Sewer District Three affected three of the applications before the Board. In the scheduled hearing of George Styliades of 181 Winbourne Road, Rochester, for preliminary site plan approval for a proposed 10-lot subdivision to be known as Green's Estates at the northwest corner of Embury and Qualtrough Roads, the applicant was advised that new building is not permitted there because of the overloading of the treatment plant in the sewer district. Engineer Karle advised Styliades to get advice from his own engineer on alternative sewage disposal systems for the interim period before Penfield can connect to the planned interceptor sewer of the Pure Waters program.

Then, in the single miscellaneous matter on the agenda, Louis V. Jeff, for Dominic Parrone and associates, asked permission to build on one lot of a 15-lot subdivision which is being held up by the moratorium. He said he planned to build a septic system to serve the single home but chairman Shaw advised him that the Planning Board could not give him authority to do so.

The Beacon Hills Planned Unit Development proposal of J. C. Audino, long tabled, was brought before the board in a new form Monday night by an attorney for Audino. He said that differences had been settled with objectors to the PUD (who had actually brought a lawsuit against the town for zoning the land to allow it) and that he would obtain a letter from Frank Sidoti, the opponents' attorney, saying that their objections had been met. The density of the overall project has been reduced to 313 dwelling units -- 253 four-family buildings in the central area and 162 single-family homes around the periphery. A berm would be constructed along Scribner Road to reduce the view of the PUD for neighbors on Timberline Drive and Old Barn Circle. The attorney said that a public use was being considered for the green areas in the development, and that Penfield supervisor Irene Gossin had suggested a conservation easement to keep the land in its natural state.

Two other changes were proposed. A sidewalk would be provided, the attorney said, to the Scribner Road School. Then, because of the moratorium on building in Sewer District Three, he said Audino proposed to build a lift station and a force main which would take sewage from the project 600 feet north to Scribner Road School facilities, which are in District One.

In other business before the board, a hearing on the application of Wallace Ashmuk for an auto sales agency at the corner of Penfield and Webster-Fairport Roads consumed an hour of the meeting's time. Several residents spoke against the proposal and one said an auto agency was needed nearby.

Daniel Giraud of Todd and Giraud architects asked approval of plans for a fire substation on Qualtrough Road behind the District Administration Building of the school district. The building would have doors in front and back, a well-designed driveway system, and pedestrian sidewalks around the building. Joseph Kuhn, chairman of the Board of Fire Commissioners, explained the need for the substation in that part of town and said that for the present it would house only one truck.

The only other item considered by the board was an application of Richard Ketenburg for Audbet, Inc., for preliminary approval of a four-lot subdivision on Clark Road opposite the Emil Muller property. No plans were made for houses, yet, Ketenburg said, but they were expected to cost from $50,000 to $75,000 when built. Engineer Karle questioned a possible erosion problem on lot two of the property.

The board took no final action before adjourning the meeting about 10:30 p.m.

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EXHIBIT N

P R E S S R E L E A S E

THE MONROE COUNTY HOUSING COUNCIL
121 North Fitzhugh Street
Rochester, New York 14614
716-546-3700

A.M. Tuesday, August 17, 1971
P.M. Tuesday, August 17, 1971
Weeklies before August 20, 1971

James R. Hughes, Consultant in Community Relations
John C. Mitchell, Housing Director, Citizens Planning Council

RE: STATEMENT OF THE MONROE COUNTY HOUSING COUNCIL WITH RESPECT TO THE PROPOSED AMENDMENTS TO THE PENFIELD PLANNED UNIT DEVELOPMENT (P.U.D.) ORDINANCE.

The opening sentence of the existing P.U.D. Ordinance for the Town of Penfield states that it is its intent "to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods... may be developed within the town that

incorporate a variety of residential types and nonresidential uses."

It is therefore most disappointing to see under consideration here, amendments to that ordinance which are diametrically opposed to this statement of intent. Neither a density limit nor a specific designation of 50% single family homes are performance criteria; they are specific, rigid, and inflexible requirements which may or may not bear any relation to the purpose of development. We must respectfully request therefore that the proposed amendments before you tonight be rejected.

There is no need for us to once again reiterate the dimensions of the housing shortage facing our community, or the increasing homogenization of our society.

It was, in fact, a very dramatic effort on the part of Penfield to address these problems that resulted in the adoption of this ordinance in the first place. Thus, it is doubly inconsistent to see the question before you at this time. Surely, the proposals that have already been presented to the Town under the existing ordinance have shown excellent design, in fact, far superior to that in evidence in most of the subdivisions in this community. Under the circumstances, it seems foolhardy to impose even more stringent regulations upon the one mode of development that has brought the highest level of design and inviornmental consideration to our community. If design excellence can be equated with a 20% change in density

EXHIBIT N

as an absolute factor, then we have yet to see evidence of the fact.

As a final point, it is worth noting that there is more than enough control in the ordinance as it exists today to ensure quality development. The application and approval process coupled with the site plan approval process offer our Town greater control over the content of a P.U.D. than we have over any development in Penfield except for those facilities that the Town itself builds. Indeed, there is also on the agenda this evening a particular project which is undergoing the strictest of scrutiny. These amendments will add nothing to the control we have already and only serve to introduce but one more arbitrary constraint on a site designer.

EXHIBIT N

In conclusion, an amendment that does not improve the existing situation but, on the contrary, only adds to the list of unnecessary obstacles to sound planning, deserves no consideration from this body. The Monroe County Housing Council accordingly recommends that you reach a negative verdict on this proposal and instead, focus your attention on our community development objectives of maximum choice to persons at all economic levels along with a creative use of the land that respects our environment.

EXHIBIT N

HOUSING COUNCIL OF MONROE COUNTY

October 8, 1971

Town Board
Mr. Howard Frank, Supervisor
Penfield Town Hall
Atlantic Avenue
Penfield, New York 14526

Dear Mr. Frank:

At a time when the Monroe County Legislature has urged the addition of 79,000 new housing units by 1980, which includes 47,400 units for low and moderate income households, it is most disappointing to note the action of your Board in making Planned Unit Development highly restrictive. It is difficult indeed to understand how this action can be helpful in meeting the above targets. Even if Penfield were to retain its current share of 3% of the housing units in Monroe County, the above goal would call for 2,370 new units in Penfield. However, Penfield's share of Monroe County's growth over the past ten years has been more on the order of 6 1/2% of the total which would call for 5,135 new units in Penfield, over half again as many new units as were authorized throughout the entire decade of the sixties.

Even more critical than numbers however, is the distribution of these

EXHIBIT N

by value and rent; and here is where your PUD action is most damaging. Only one-fourth of the owner-occupied housing in the Town of Penfield may be valued at less that $25,000. Fully one-third costs in excess of $35,000. The median value of housing in Penfield is the third highest in the county, and of the houses for sale, the median value of $36,000, is second highest in the county, a price which only 12% of the residents of Monroe County can afford. 45% of the families residing in the County have low or moderate incomes. Penfield families who have outgrown their houses or who have had their children leave can not even afford to remain in the Town.

The rental picture is no better, with the median rent for two-bedroom apartments being $195 monthly. Penfield is outdistanced by only three other towns in the county as far as rentals go. The density restrictions placed on PUD's by your recent amendment effectively foreclose any changes in these characteristics. At a time when water and sewer service is not dependent upon on-site facilities, when sensitive environmental design can create better living areas at higher densities, and when economic conditions dictate more efficient use of land to even meet middle income demands, it borders on the irresponsible to stake out an arbitrary density figure when, in fact, all three submissions to the Town

EXHIBIT N

of Penfield under the original ordinance far surpassed any existing subdivision in the Town in terms of quality of design.

Our statement to you of August 17th clearly expounded these views and needs no repetition here. We were joined in them by many other concerned citizens of the Town of Penfield. We also note that members of your own Town Planning Board were taken aback by this precipitate action. We therefore call upon you once again to reconsider this serious step you have taken and move instead in the direction of sound and responsible planning and development for the Town of Penfield. The Housing Council as always, stands ready to assist you in this process in any way you see fit.

Sincerely,

/s/ Victor F. Vinkey
Victor F. Vinkey, Chairman
Political Actional Committee

VFV:tjm

EXHIBIT O

COOPERATIVE HOMEOWNERSHIP
FOR
PENFIELD

EXHIBIT O

THE NEED

Many years ago,Penfield was a small, rural community, self-sufficient, independent, whole. It was the kind of place we recall, with the nostalgia reserved for by-gone times, as a home for "rich" people, plain people, old people, young people, business people and farming people. There was room for all.

Following World War II, Penfield was caught up in the building boom. It became more and more a bedroom community, its residents working elsewhere. As the years passed it became increasingly difficult for people of moderate income to find housing they could afford.

In the past year was added the additional burden of a sharp increase in property taxes and a substantial hike in the interest rate on home mortgages. The result: a "specialized" community, a community in which only a relatively small range of occupations and income levels are represented. Penfield has become a community in which many of the people who serve us every day, in our schools and local businesses, are unable to afford a home.

As it continues to grow, Penfield will be a more interesting place, a more stable place, if a way can be found to accommodate these people. We need them. We need the enthusiasm of young people

EXHIBIT O

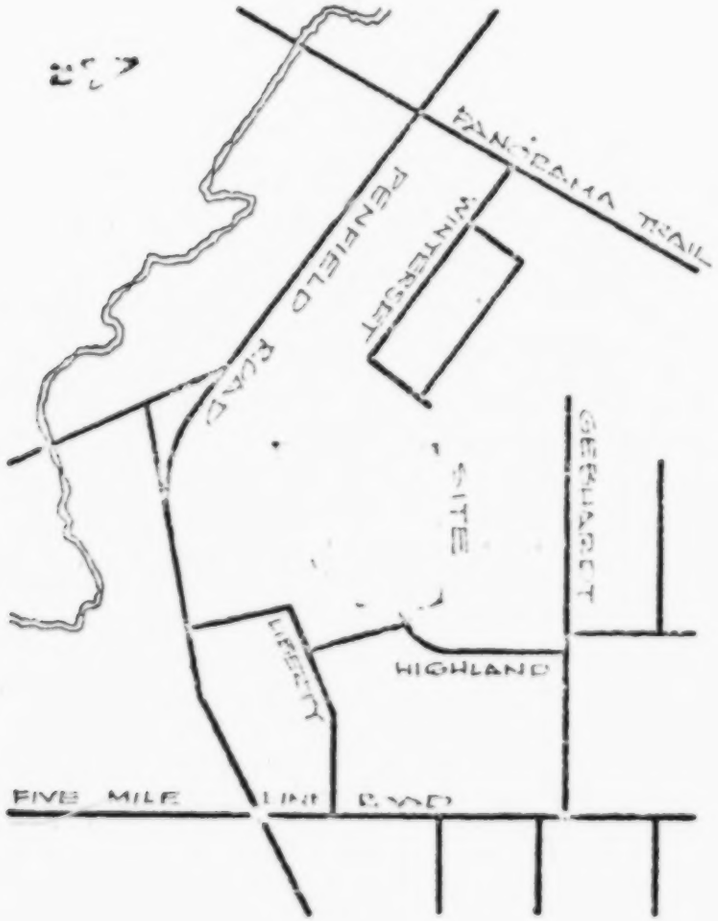
just beginning their productive lives. We need the wisdom and the sense of having roots in the past of older people. The teacher, the local tradesman, "the butcher, the baker, the candlestick-maker", people from all walks of life; we need them all.

A SOLUTION

The Penfield Better Homes Corporation (PBHC), a non-profit group of concerned citizens, a majority from Penfield, has studied the need for more diversified housing in Penfield. During the past two years, PBHC has consulted with Penfield town officials, with Monroe County Planning Council, and with most of the housing experts in Monroe County, exploring ways to meet the housing needs of persons earning approximately $5,000 - $8,000 yearly.

The solution arrived at by PBHC is non-profit cooperative housing in which families own, rather than rent, their homes. There are sound reasons why cooperative housing offers a superior alternative to rental projects for people of moderate income, both for the residents of the cooperative and for the community. Families living in cooperative housing units enjoy tax benefits of home ownership denied to renters. The element of ownership and the self governing management arrangement which involves members of the Coop tends

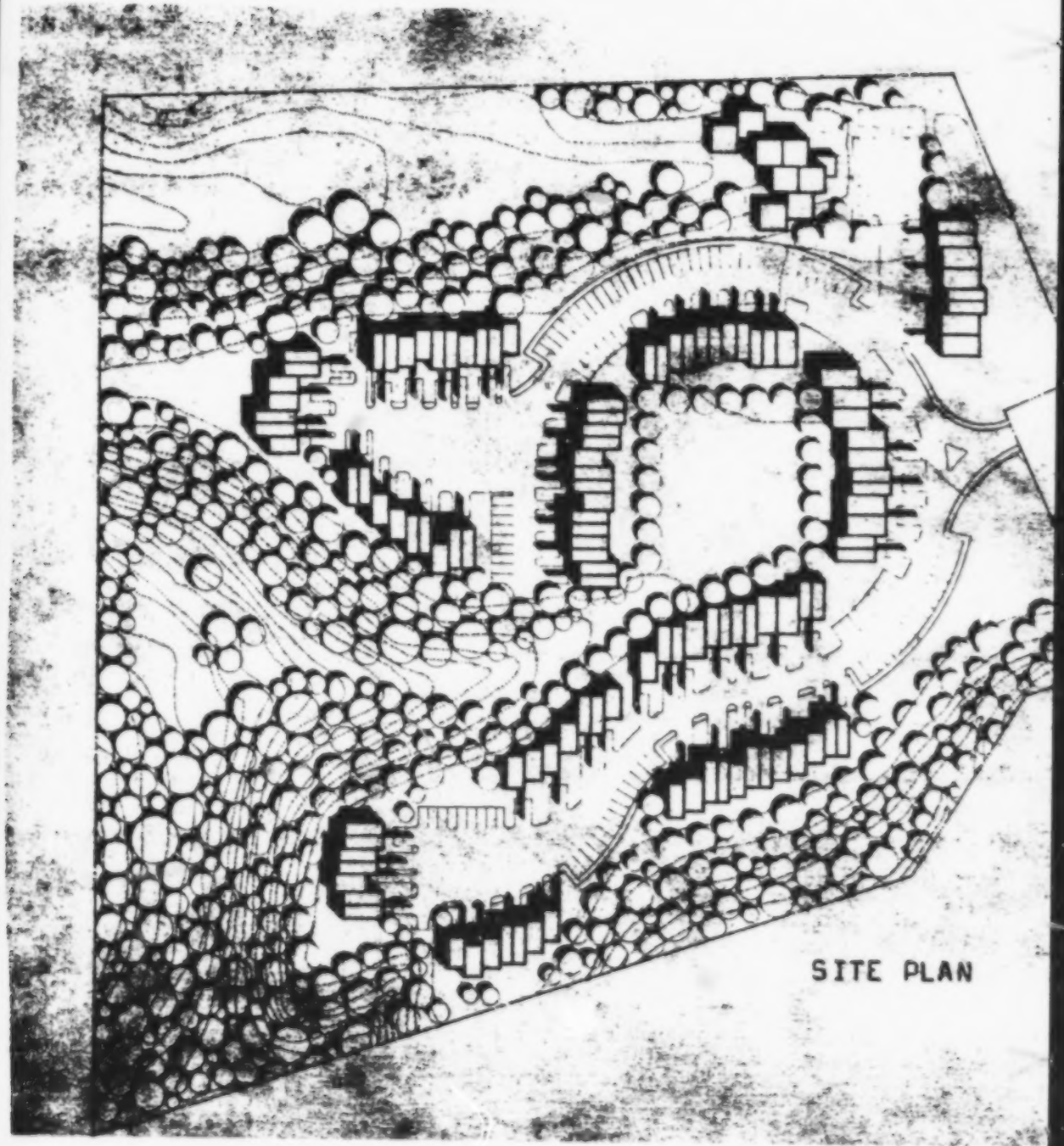
to create an atmosphere of mutual respect; thus a more stable neighborhood environment results. It is proposed by PBHC that a cooperative housing complex, "Highland Circle", incorporating the features outlined above, be built in Penfield. The location we have in mind is located north of Penfield Road, fronting on Highland Drive. (See map.)



On more than 15 acres only 130 units will be built. The remainder of the land will be used for recreational area and buffer.

The present hope is to begin construction of pre-sold units in about a year, pending approval for rezoning and approval of plans by the Town of Penfield, and pending FHA approval of our plans and the project in general. FCH Services, Inc., Stamford, Conn., a non-profit housing consultant organization, has been chosen by PBHC to provide advice and assistance. FCH has assisted in completion of more than 20,000 housing units throughout the country during the past two years.

The builder will be the MSH Development Corporation, Rochester, N.Y.; general contractor Jack Sandman. The architect will be Robert James Macon, A.I.A., Rochester, N.Y.



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QUESTIONS AND ANSWERS

Let's consider for a moment a few of the effects of the proposal on the community.

Q. What will be the effect on Penfield schools?

A. The question really is: how will the number of public school children per dwelling unit in Highland Circle compare with the number of children from other dwelling units in Penfield? Apartments (Browncroft, Knollbrook, Panorama Skyline, Brebeuf, Pennwood, Penn Lane) average .2 child per unit. The average number of public school children per single family home is 1.07. (These figures sound low until it is remembered that many children are pre-school age, college age, or attend private schools.) For purposes of estimation, let us equate the one and two bedroom units in Highland Circle with the apartments, and the three and four bedroom units with private homes. We presently plan a bedroom mix of 15, 70, 30 and 15 one, two, three, and four bedroom units, respectively. This allows us to estimate the number of public school children added to Penfield public schools: 85 x 0.2 + 45 x 1.07 = 65.

EXHIBIT O

Q. How would traffic in the area be affected?
A. With the help of a traffic engineer from the County Planning Council, a traffic study was made of streets surrounding the site. The study showed that anticipated traffic would cause "no appreciable effect on the subjective quality of the neighborhood; and does not even begin to approach the physical capacities of the network". Also, the close proximity of the site to public transportation should eliminate some drivers.

Q. How about water, drainage, and sewage?
A. The capacity of existing systems for all three is more than adequate to meet the added demand. Drainage on the building site was found to **be excellent.** Storm water will be carried to the bottom of the gully by drain pipes to prevent erosion. The cost of sewers for the area will be shared by more people, thereby reducing charges for present residents.

**** picture omitted***

Q. How will the general appearance of the neighborhood be altered?
A. One thing that seems certain is that the area will be enhanced by the project. Mr. Sandman, long a Penfield builder, is sensitive to the feelings of local residents. Mr. Macon is an architect with a feeling for what is appropriate to the situation--in terms of human beings, materials, and physical surroundings. He

EXHIBIT O

will provide living quarters that are sensible, gracious, and enduring. Existing terrain will be used to its best advantage, preserving what is useful, improving on that which is not.

Q. What is the per acre density?
A. Highland Circle will have 8 units per acre (Less than the present town house ordinance allows).

Q. Who will live here?
A. Anyone demonstrating acceptable credit with income between about $5,000 and $8,000 yearly (as defined by FHA Law 236) is welcome.

Q. How will the property be maintained?
A. Property maintenance will be the job of a management firm hired by the new home-owners, all of whom will have membership and voting rights in the cooperative.

Q. What will be the total cost of the project?
A. The total cost of this project will be in excess of $2,000,000 or about $20,000. per housing unit.

**** pictures omitted****

EXHIBIT O

CONCLUSION

In the end, the proper question seems to be, not should we build moderate income housing, but can we afford not to. Can the industries that employ so many Penfield people survive and grow without the middle income technicians, clerical personnel, and other needed non-professional employees? Many of these jobs go begging now. What will happen in the future?

Penfield town officials have urged local citizens to come forward with just such a proposal. Now the opportunity is here to have Penfield benefit from the expertise of professionals in many fields who have bent their talents toward the planning and success of this project.

EXHIBIT O

WORKING MEMBERSHIP

Clarence Archie
Mr. and Mrs. John Bickmore
Michael Doran
Mr. and Mrs. Kenneth Gunther
J. Donald Hare
Clarence Heininger
Mrs. Martin Korn
Edward Lind
Dr. and Mrs. Neal McNabb
Rev. Richard Nygren
Mrs. Stanley Patten
Richard Regen
Dr. and Mrs. A.P. Scheiner
Mrs. Arthur Schmale
Mr. and Mrs. Robert Tischer
Stanley Tracy
Mr. and Mrs. James Wood
Stanton G. Levin of
Johnson, Reif and Mullan, attys.

EXHIBIT P

Soil Review
of Proposed Apartment Site
Town of Penfield

Below are listed the soils that exist in this area. I think you realize that this area is old glacial deltaic deposits and they are quire deep, very erosive to wind and water.

26 B-2 Colonic Loamy Fine Sands.
These soils are deep, well to excexxively drained, loamy fine sands. Dominant slope in the area is from nearly level to sloping. Average about less than 4 feet per hundred. These soils are subject to severe erosion by water and wind if vegetation is removed. During periods of development these areas can cause severe local sand storms.

22 EF-13 Arkport - Colonic Soils on steep slopes.
The soils are a combination of the previously described soils and a finer textured soil called Arkport Very Fine Sand Loam. The Arkport soils contain more silt and finer sands. They are subject to severe water erosion. These areas are well drained, and deep. The dominant slope is greater than 25%, or 25 feet per 100 feet. In most places it will exceed 35 feet per 100 feet.

EXHIBIT P

General Recommendations for Changes of Land Use to More Intensive

1. No structures, building, roads, parking lots, etc., should be located closer than 30 feet to the crest of this steep sloping area. Shown on the attached map in blue. I would strongly recommend that if the area is developed, that the developer be required to construct a snow fence along the line shown in blue. This will keep construction equipment from denuding the steep area and adjacent area of vegetation and causing serious erosion problems. Plus, it will assure the present vegetation to be preserved on this steep area. This should be done before any equipment is allowed on the site.

2. Bearing test of soil material, in relation to weight of structure, should be required. There are some very unstable conditions at 3 to 6 feet in this area.

3. Grading on the relatively flat area should be held to a minimum. Just grading to construct street and parking lots would be ideal. All structure would be built on present topography. I would also suggest that pre-staking of roads, parking lots and structure location be required and have the Town review the site before construction equipment is allowed on site.

4. After initial earth moving has taken place, required temporary seeding during construction. Erosion during development on these soils can be very severe during development. Specifications for temporary seeding can be obtained from the Soil Conservation Service office.

5. All storm water, surface, downspouts, and sump systems to be collected and piped to the bottom of this steep slope. The storm sewer conduit should have anti-seep collars in this steep area, to insure that no future gullying occurs, due to lateral piping of water.

6. Control clearing of area for construction of the storm system in this steep area disturbs a minimum of present vegetation. Require strict erosion control measures during and after construction.

7. Require sediment basin to be constructed before any disturbing of soils is started. This will insure protection of the areas below from sedimentation of storm sewers and roads. This would only be for during construction and a short period after. Design for this can be obtained from local Soil Conservation Service office. Make this sediment basin a prerequisite for approval of start of any project.

9. Either required complete sodding of

disturbed area so as to control erosion completely,(this would be best) or have written strict control on how the area is to be seeded and mulched.

10. Require that all topsoil be replaced on the site. This will make it easier to establish vegetation, reduce runoff and erosion.

11. Any plan proposed in this area should have a complete vegetative and landscaping plan to show how steep slopes are going to be protected from heavy foot traffic, and how the neighboring area is going to be screened.

12. All surface drainage on development site should drain toward streets and be collected in storm sewer system.

EXHIBIT Q

COUNTY OF MONROE

NEW YORK

200 County Office Building
Rochester, N.Y. 14614
Telephone: 454-7200 Ext.272

Alexander Gray
Director of Public Works and
Superintendent of Highways

December 3, 1969

Mr. John L.Callaghan, Attorney
Planning and Zoning Board of Appeals
Town of Penfield
Penfield, New York, 14526

Re: Traffic Survey

Dear Mr. Callaghan:

This department has taken traffic counts on Gebhardt Road, Liberty Street, Five Mile Line Road and Penfield Road at the locations requested in your October 8th letter. The date has been edited and the traffic counts are as follows: (see map)

Road Name	DHV	ADT
Gebhardt Road	289	1715
Liberty Street @ Five Mile Line Road	78	560
Liberty Street @ Penfield Road	139	1289

EXHIBIT Q

Road Name	DHV	ADT
Five Mile Line Road	581	8710
Penfield Road	858	13845

(Dates counts were taken: October 29, 1969 thru November 11, 1969).

The data from this traffic survey indicates that the traffic volumes on Liberty Street and Gebhardt Road which are town roads are operating at the lower end of their rated capacity. Five Mile Line Road, a county road is also operating below its rated capacity and Penfield Road, a state highway is operating above its rated capacity. Therefore the only facility which is operating above capacity is Penfield Road and this facility is programed for reconstruction in the near future. The increase in traffic by the proposed apartment project will not have an adverse effect on any of the facilities included in this traffic survey.

Very truly yours,

/s/ Alexander Gray
Alexander Gray
Director of Public Works

AG:SL::ars
CC: H.Frank
P.Bailey

EXHIBIT R

Brief from Robert J. Anderson,
Syrac. U. Law School, Zoning
Authority (hired by us as
consultant)

October 27, 1969

John Bickmore, President
Penfield Better Homes Corp.
Rochester, New York 14625

Dear Mr. Bickmore:

You have invited me to comment on the question whether an amendment of the zoning ordinance of the Town of Penfield creating a Town House Dwelling District on a sixteen-acre parcel of land (hereinafter more specifically described) would be vulnerable to legal attack on the ground of spot zoning. It is my opinion that such an amendment would not constitute spot zoning and that it would be sustained in the event of such a challenge.

EXHIBIT R

Reviewing the question posed above, I examined the zoning ordinance of the town, including the amendment of May 12, 1969 which created a Town House Dwelling District but did not assign a geographic location to any such district. In addition, I examined the zoning map of the town and map of the area in issue which shows existing uses and topographical features of the vicinity of the proposed change. Finally, I discussed with your representatives the history of your proposed development and its principal physical characteristics. My conclusions have been reached by applying the New York precedents to my understanding of the facts gleaned from these sources.

The site in question (hereinafter

called "the site") is a parcel of approximately 16 acres located in the southwestern corner of the Town of Penfield. It is an undeveloped and partially wooded area currently zoned Residential A to permit one-family dwellings, two-family dwellings, certain lodging or boarding houses, and other specified uses not here relevant. Land adjacent to the northern border of the site is occupied by Cobbles School. The western portion of the site drops sharply a distance of about 80 feet. Land adjacent to the site on its western boundary is zoned Residential A, and land further west and southwest is divided variously into apartment, commercial and industrial districts. The southern boundary of the site abuts

undeveloped Residential A land and land zoned and recently developed for multiple dwellings. The eastern boundary of the site abuts land zoned and developed as Residential A. A commercial district and an additional apartment district are located southeast of the site.

An attack on a zoning amendment which asserts that such amendment constitutes spot zoning is essentially a contention that the amendment was not adopted in accordance with a comprehensive plan for development of the community. The Court of Appeals has defined spot zoning as "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners . . .;

'spot zoning is the very anthesis of

planned zoning.'" [Rodgers v. Tarrytown, 302 NY 115, 96 NE2d 731 (1951).] While this memorandum will comment at some length concerning the specific features of the proposed amendment which militate against any conclusion that it is spot zoning, it seems worth pointing out that the amendment in question, when viewed in the context of the existing zoning pattern of the town, seems generally consistent with that pattern. It appears to forward the plan rather than to run counter to it.

It is clear that the New York courts examine the zoning ordinances and map to determine what the community's plan is. [Walus v. Millington, 49 Misc 2d 104, 266 NYS2d 833 (1966); additional cases are collected in Anderson, Zoning Law and Practice in New York State,

§5.02.] This kind of examination of the Penfield ordinance and map discloses that the bulk of the land in the town is zoned Residential AA, the most restrictive residential classification. It shows further that a few scattered commercial zones have been created but that most commercial and industrial uses have been confined to blocked-out and contiguous areas in the northwest and southwest corners of the town. Where apartments have been permitted, their districts have been created from time to time in these sections, and they have been small districts. At least four of these small apartment districts are located in the Residential A district where the Town House Dwelling District is proposed. Thus, the creation of such a district would appear to be a logical projection of the

pattern of development which is implemented by the existing zoning ordinance.

This conclusion is given additional credibility by the recent adoption of Section 29-11.1 creating a town house district. Unless the enactment of that section was a vain exercise of the legislative process, it must be assumed that the creation of such districts in the town was contemplated. It is not unreasonable to conclude that the future sites for such districts were expected to be in those areas of the town where dwellings other than single-family ones have previously been placed. To provide space for town houses in an area less restricted (e.g., Residential A) and nearer to multiple-dwelling uses clearly is more in accordance with the zoning pattern than to place such town houses in an area more restrictive (e.g.,

Residential AA) and more remote from existing multiple-dwelling uses. In short, the proposed amendment seems clearly in accordance with the comprehensive plan, as that plan is reflected in the zoning ordinances and map of the Town of Penfield.

Additional support for the conclusion that the proposed creation of a Town House Dwelling District is provided by the nature of Section 29-11.1 and the manner of its adoption. The section is carefully constructed to insure a desired kind and quality of town house development, and to protect adjacent landowners. It limits density, imposes area requirements, limits height, regulates the size and conformation of units, imposes parking requirements and restricts lot coverage. In addition, it mandates site plan review, requiring at least 19 specific inclusions in the

plan submitted for approval. Finally, when the section was adopted, no geographic location of districts was accomplished. This was left to subsequent legislative judgment. All of these factors lead to the conclusion that Section 29-11.1 created what has become known in New York as a "floating zone." The enactment of such legislation, and the subsequent geographical placement of zones similar to the Town House Dwelling District, have been consistently approved by the New York courts. The contention that such districts are created through spot zoning has been rejected in relation to districts as small as ten acres. [Rodgers v. Tarrytown, supra.] In the cited case, the Court of Appeals upheld the creation of a garden apartment district located

in what had previously been a single-family residential zone. The court discovered a relationship to the comprehensive plan in standards for development analogous to those found in Section 29-11.1. Both ordinances created a district without placing it; both contained restrictions designed to protect surrounding property; and both required intensive site plan review by a planning board.

Perhaps the only argument of a plausible nature which tends to support a charge of spot zoning is the size of the proposed district. Where the spot zoning argument has been successful, the area involved has been a single lot or a very small parcel of land. Rarely has a court discovered spot zoning in amendments affecting more than ten acres of

land. Even in these instances, the courts have been emphatic in their insistence that a zoning amendment may not be denominated spot zoning simply because it applies to a relatively small parcel of land. [The New York cases are collected in Anderson, Zoning Law and Practice in New York State, § 5.04.] The relevant inquiry is not the size of the area but "whether the zoning was accomplished for the benefit of the individual owner, rather than pursuant to a comprehensive plan for the general welfare of the community." [Greenberg v. New Rochelle, 206 Misc 28, 129 NYS2d 691 (1954), affd 308 NY 736, 124 NE2d 716.] Indeed, where a rational purpose was apparent to the court, amendments which reclassified single lots have been sustained. [Scannell v. Dunkirk, 9 AD2d 725, 192 NYS2d 192 (1959).]

Where spot zoning is urged, the courts commonly have inquired concerning the probable impact on surrounding land. Town houses located on the site here in issue would appear to have little impact upon adjacent land. The school to the north would be unaffected. Land to the west is buffered by the topographical features mentioned above. Property to the south is already developed by the construction of apartments. Single-family homes to the east are already near a multiple-family development, and their interest is protected by the standards and site plan review provided in the ordinance.

If some minimal impact upon surrounding land can be demonstrated, this must be balanced against the benefits to be derived from the town house development. It is my understanding that the Town of Penfield is in need of the kind of middle-

income housing which will be provided by the planned development and that the need is local rather than simply a problem of overflow from the urban center. Where such a public need motivates a zoning amendment, the courts are most reluctant to discover spot zoning. Particularly is this true where the amendment is not sought to enrich a developer but is requested by a nonprofit organization seeking to achieve a community benefit. [Relevant cases are collected in Anderson, American Law of Zoning, § 5.06.]

Finally, any remaining likelihood that the proposed amendment would be disapproved as spot zoning appears to be removed by the careful planning which has preceded the selection of the site. The Foundation for Cooperative Housing Services has examined the site and found

it suitable in all respects. The architect has viewed it and reached the same conclusion. The executive head of the county planning department has concurred. If the planning board of the Town of Penfield and the legislative authority of the town should reach the same conclusion and approve the reclassification of this land, it is difficult to imagine that a court would conclude that the zoning amendment was not in accordance with a comprehensive plan. [See generally, Point Lookout Civic Association v. Hempstead, 22 Misc 2d 757, 200 NYS2d 925 (1960), affd 12 AD2d 505, 207 NYS2d 121, affd 9 NY2d 961, 217 NYS2d 227, 176 NE2d 203; Twenty-one White Plains Corp. v. Hastings-in-Hudson, 14 Misc 2d 800, 180 NYS 2d 13 (1958), affd 9 AD2d 934, 196 NYS 2d 562.]

Respectfully submitted,

EXHIBIT R

Robert M. Anderson

RMA:nm

EXHIBIT S

PENFIELD PLANNING BOARD

Tuesday, September 9, 1969

RESOLVED, that the application of the Penfield Better Homes Corporation, 1849 Blossom Road, Rochester, New York for a recommendation from the Penfield Planning Board to the Penfield Town Board for the rezoning of approximately 15 acres of land from Residential A to the Town House Dwelling District, said land located at the south end of Highland Drive at the northwest intersection of Gebhardt and Highland Drive, be and the same hereby is DENIED for the following reasons:

1. Town House construction would constitute an inappropriate use of this land and would not be consonant with existing character of the neighborhood;

EXHIBIT S

2. Subject use would create traffic problems within the area; and

3. the proposed plan violates setback recommendations as set forth in the report and map of the Department of the United States Agriculture Soil Conservation Service, dated December 15, 1969, and would cause serious erosion problems during and after construction.

AND AT IS FURTHER RESOLVED, that not withstanding, the above denial of the subject application for the use of this site, the Board recognizes the need for a project of this nature in Penfield.

s/s J.B.Jones

EXHIBIT T

Penfield, New York January 12, 1970

RESOLUTION DENYING AN APPLICATION FOR A PUBLIC HEARING TO CONSIDER A REZONING

WHEREAS, Penfield Better Homes Corp. has heretofore made application to the Planning Board for a recommendation to rezone from Residential "A" to the Town House Dwelling District approximately fifteen (15) acres of land located at the south end of Highland Drive at the north-west intersection of Gebhardt and Highland Drive; and

WHEREAS, the Planning Board has denied said application; and

WHEREAS, Penfield Better Homes Corp. has now petitioned this Board to call a public hearing to consider the request for such rezoning;

NOW, THEREFORE, BE IT RESOLVED that this petition be denied for the following reasons:

1. The Planning Board, under its rules, has on two separate occasions, conducted public hearings on the application and have given to all those who wished to be heard an unlimited opportunity to present evidence and to express their views on the merits of the proposed rezoning. These public hearings were held on adequate notice and were attended by a large number of interested persons.

EXHIBIT T

2. The report of the Planning Board includes reasons for its recommendation which are sufficient and consistent with good planning; and

BE IT FURTHER RESOLVED that this Board also recognizes the need for moderate income housing in the Town of Penfield and will consider the necessary legislation to accomplish it in an appropriate location or locations.

EXHIBIT U

O'BRIEN HOMES INC. APPLICATION

TO THE PENFIELD PLANNING BOARD

AT AN ADVERTISED HEARING HELD

SEPTEMBER 27, 1971

EXHIBIT U

TABLE OF CONTENTS

I	PLANNED UTILIZATION
II	FINANCIAL FACTORS
III	PROJECTED BUYER PROFILE
IV	COMPARISON OF EFFECTIVE DENSITY FACTORS
V	COMPARISON OF REVENUES TO THE TOWN OF PENFIELD
VI	COMPARISON OF SERVICE REQUIREMENTS FROM THE TOWN OF PENFIELD
VII	SUMMARY

EXHIBIT U

I APPLICATION - Part One:

For approval by the Penfield Planning Board for the re-zoning of 17.1 acres in Penfield from AA to Apartment Zoning of approximately 12 Units per acre.

II REASONS:

1) Good planning relative to compatibility of use

2) Is in line with Penfield Master Plan

3) Highest and best use of land

RELATED INFORMATION

I Planned Utilization

A) At the January 14, 1969 meeting of the Penfield Planning Board, O'Brien Homes offered to set aside at least seven acres of land adjoining their proposed townhouse development, to be used for low to moderate income housing. This offer followed a recommendation of the Monroe County Planning Council and the offer was commended by the Penfield Planning Board and the Town Board.

At that meeting, O'Briens stated that they were not in a position to develop rental property, and that they could

not promise whether they would be able to develop low to moderate income housing for sale on the offered site, or whether it would be done by someone else.

O'Briens are now in a position to develop this low to moderate income housing for sale at this location.

B) Basic Development Facts:

1. A condominium development of Apartment Homes, including a Homeowners Association to guarantee exterior maintenance.

2. Less than 1,500 feet of dedicated roads, the remainder are private drives.

3. 51 four-family buildings, with a garage for each family as an integral part of the building. (204 units)

4. Colonial style architecture, compatible with the area

5. Complete sodding and landscaping with a recreational area.

6. Unit Features - (4 Units per Building)

   (a) Two 1-story units of approximately 800 square feet each

   b) Two 2-story units of approximately 900 square feet each
   c) Private entrances
   d) Two bedrooms, one bath
   e) Range, oven and hood, garbage disposer, carpeting, formica cabinets, thermopane windows and screens, bath vanity and built-in television antenna.

II Financial Factors

As a private sector of the economy, we are unable to provide housing for people who have both low income and lack of capital necessary for downpayment. However, we can help those who have moderate income with limited funds for downpayment (usually young people) or those who have low income with accumulated funds (usually middle-aged to retired people)

A) Projected Selling Price - $17,500. to $18,000.

We have similar units available in East Rochester at $17,440. However, the Penfield units will have far more expensive exteriors and a density of 12 per acre versus 16 per acre in East Rochester.

B) Minimum Down Payment - 10%

1. Moderate income group with no funds for higher down payment - a 10% down payment requires

a yearly income of between $8,500-$9,000. to qualify for a mortgage.

2. Low income group with accumulated funds for higher down payment - an $8,000. down payment would require an income of between $7,000 to $7,500 to qualify for a mortgage.

III Projected Buyer Profile

Our projections for occupancy per unit indicate the following:

Adults	1.73	
Children	0.17	*
Total	1.9	Per unit

*A total of 17 children for 100 units - (See Appendix A)

IV Comparison of Effective Density Factors *

Item	Windsor Square Phase One Town Houses	Brookhill Garden Apartments	Windsor Square Apartment Homes
People/Acres	26.1	22.8	22.8
Land Coverage			
Dedicated Road	3.1%	0.0%	1.8%
Private Drive/ Parking	18.7%	21.4%	15.8%
Buildings	23.8%	12.8%	17.2%
Green Area	54.3%	65.8%	65.4%

* For further analysis - see Appendix II

V. Comparison of Revenues to the Town of Penfield *

Description	Apartment Homes	Single Detached
Market Value of Taxable Property Per Acre	$216,000. Per Acre (12 Units x $18,000)	$70,000. Per Acre (2 Units x $35,000.)
Market Value of Taxable Property Per Child	$108.000. Per Child (.17 Children/Unit or (2 children/acre)	$23,333. Per Child 1 1/2 Children/Unit) or (3 children/acre)

* See Appendix I

VI. Comparison of Service Requirements from the Town of Penfield

This project has less than 1,500 feet of dedicated roads versus a minimum of 8,000 feet for 200 single detached units on 80 foot lots.

VII. Summary

This project will offer single people and small families of low to moderate income the opportunity to enjoy the advantages of home ownership.

Although theoretically the Town will be granting these family owners the same density standards as apartment dwellers, in reality this development will have both less building coverage and less people density than Townhouses at 9 units per acre.

In addition, these units will pay far more for Town services received and far more towards the education of their children than single family units.

Approving the necessary zoning to make this project financially feasible will demonstrate that the Town of Penfield is sincere in its desire to develop low to moderate income housing when such projects are mutually beneficial to the new home owners and to the present citizens of the township.

895

EXHIBIT U

PROJ. NO. 892.05

DATE September 10, 1971

SEAR • BROWN
Schoenberger • Costich • Maletta
Civil Engineers and land planners
85 Metro Park, Rochester, New York 14623

MEMORANDUM

COMPARATIVE ANALYSIS

	Windsor Square I (Townhouses)	Brookhill (Garden Apts.)	Linden East Apt. Homes)	Windsor Square V (Apt. Homes)
Project Area(Ac)*	15.9	18.2	14.3	17.1
Dwelling Units (DU)	136	192	200	204
Density: DU/Ac	8.6	10.5	16	12.0
People/Acre	24.9	22.8	30.4	22.8

894

EXHIBIT U

APPENDIX I

	Projected on Average of 10,000 Homeowner Apartments in Western States	Actual on First 51 Active Prospects in Linden East East Rochester
Adults Per Unit	1.73	1.6
Children Per Unit	0.17	0.16
TOTAL	1.9	1.7

EXHIBIT U

	Windsor Square I (Townhouses)	Brookhill (Garden Apts.)	Linden East Apt. Homes)	Windsor Square V (Apt. Homes)
Land Coverage**				
Dedicated Road	3.1%	0.0%		1.8%
Private Drive/ Parking	18.7%	9.8%	9.0%	15.8%
Buildings	23.8%	9.8%		17.2%
TOTAL	45.7%	34.2%	39.2%	34.6%
Green Area ***	54.3%	65.8%	60.8%	65.4%
Guest Parking	136=8.6Ac	Unknown	7=0.5/Ac	78=4.5/Ac

* Measured to centerline of dedicated road.
** Includes buildings, private drives, parking areas.
Does not include sidewalks, pool and clubhouse.
*** Green Area equals 100% minus percentage of land coverage.

EXHIBIT V

PENFIELD PLANNING BOARD
October 12, 1971-Page 2.

Houses consisting of 32 Town Houses for sale to be located on the east side of Panorama Trail and south of the Mt. Read subdivision in accordance with a resolution of the Board dated 12-8-70 and reapproved 6-2 -71, be and the same hereby is reapproved, subject to the same conditions previously stated.

VOTE OF THE BOARD

George Shaw, "AYE"
James Hartman, "AYE"
John D. Williams, "AYE"

Upon the motion, all of the Board Members present having voted "AYE, the resolution was declared adopted.

TABLED MATTERS

Item # 1. The application of O'Brien Planned Communities, Inc. 6780 Pittsford-Palmyra Rd., Fairport, N.Y. 14450 for a recommendation from the Planning Board to the Town Board for the rezoning of 10.7 plus acres of land on the south side of Penfield Rd. from Residential "AA" to Commercial Zone and from Residential "AA" to Apartment or Multiple Dwelling District, 17.1 plus acres located directly south of the above parcel. Both parcels located between Wegman's Shopping Center and Stanndco's proposed Planned Unit Development and north of the existing O'Brien Town House project.

EXHIBIT V

Mr. Donald Summers, an attorney, appeared in behalf of this application. He briefly reviewed with the Board what had been presented at the previous meeting and stated that he was here this evening to ask if the Board had any questions and to ask for prompt action in behalf of his client.

A general discussion then took place between members of the Board and the applicant concerning the overall proposal.

No one else wished to be heard on this matter and a motion was made by James Hartman and seconded by John Williams that the following resolution be adopted:

RESOLVED, that the application of O'Brien Planned Communities, Inc. 6780 Pittsford-Palmyra Rd, Fairport, N.Y. 14450, for a recommendation from the Planning Board to the Town Board for the rezoning of 10.7 plus acres of land on the south side of Penfield Rd. from Residential "AA" to Commercial Zone and for the rezoning from Residential "AA" to Apartment House or Multiple Dwelling District 17.1 plus acres located directly south of the above parcel; both parcels located between Wegman's Shopping Center and Stanndco's proposed Planned Unit Development and north of the existing O'Brien Town House project, be and the same hereby is DENIED.

VOTE OF THE BOARD

EXHIBIT V

George Shaw, "AYE" John D. Williams, "AYE"
James Hartman, "AYE

EXHIBIT W

to the approval of the Monroe County Health Department as to the proposed holding tank sanitary sewer system.

VOTE OF THE BOARD

George Shaw, "AYE" Timothy Westbrook, "AYE" James Hartman, "AYE" John D. Williams,"AYE"

Upon the motion, all of the Board Members present having voted "AYE", the resolution was declared adopted.

ITEM #2. The application of Feno Pecora 33 Woodhaven Drive, Rochester, N.Y. 14625 for a recommendation for the Planning Board to the Town Board under section 24-3(e) of the Penfield Zoning Ordinance for a permit for top soil removal and excavation on 37 acres of land located on the south side of Empire Blvd. on Wilbur Tract Road, Account #435-000 and 870-500.

This application has been postponed to April 10th. at the request of the applicant.

MISCELLANEOUS MATTERS

ITEM # 1. The application of James R. Liberty, O'Brien Planned Communities Inc., 6780 Pittsford-Palmyra Rd., Fairport, New York, 14450 for the purpose of discussing

EXHIBIT W

with the Board a possible recommendation to the Town Board to rezone 27 acres from Residential "AA" to apartments and multiple dwellings and limited commercial. The property is south of Penfield Rd. and west of the Wegman property; east of the proposed Willow Pond PUD and north of O'Brien Planned Communities, Account #62-000.

James Liberty and Robert Schoenberger appeared on behalf of the application. They informed the Board that they proposed a density of 12+ units per acre in a quadruplex configuration. A day care center was proposed in the approximately 1 acre and a commercial zoning was proposed for that one acre. The Day Care Center to be operated by Gerber Products. Liberty said that in his opinion the proposed structures were apartments and not Town Houses. The sales price would be below $20,000, and would be suitable for individuals earning $ 8500. per year and above. David O'Brien stated a similar in East Rochester produced 17 children per 100 units. Eleanor Turner of Perinton asked whether the East Rochester project had been pre-sold. She also inquired about the proposed Day Care Center.

After the discussion, Mr. Timothy Westbrook made a motion and Mr. James Hartman seconded that the matter be tabled.

EXHIBIT W

VOTE OF THE BOARD

George Shaw, "AYE"
James Hartman, "AYE"
Timothy Westbrook, "AYE"
John D. Williams, "AYE"

PENFIELD PLANNING BOARD
Monday, April 24, 1972

The regular meeting of the Penfield Planning Board was held att he Penfield Town Hall on Monday, April 24, 1972 at 8:00 P.M. E.S.T.

BOARD MEMBERS PRESENT

George Shaw, Chairman John D. Williams
Timothy Westbrook Richard C. Ade

BOARD MEMBERS ABSENT

James Hartman

ALSO PRESENT

Samuel Dattilo Attorney for the Board
Robert H. Fuller, Director of Public Works and Clerk of the Board
James Hain, Building Inspector
David Dinse, Ass't. Building Inspector

The Clerk was directed by the Chairman to read the agenda

EXHIBIT W

ADVERTISED HEARINGS

ITEM # 1. The application of O'Brien Planned Communities, Inc. 6780 Pittsford-Palmyra Rd., Fairport, N.Y. 14450, to obtain recommendation from the Planning Board to the Town Board to rezone twenty-seven (27) acres of land from Residential "AA" to Apartments and Multiple Dwellings and Commerical. The property is south of Penfield Rd. and west of the Wegman property; east of the proposed Willow Pond Pud and north of the O'Brien Planned Communities, account #62-000.

Mr. David O'Brien appeared on behalf of the application. Mr. O'Brien stated that the present plan showed a decrease of commercial area and an increase of dwelling units from plans relating to the same project which the Board had seen in the past. Mr. O'Brien thought the present zoning was confiscatory; that his plan was compatible with the zoning of adjoining areas; and that the proposed development would serve the needs of the regional community.

Mr. Earl De Rienzo, architect, described the surrounding zoning, stating the area was surrounded by commercial or attached residential. He also stated that 1 to 2 acres of the site would be required for a day care center.

Robert Schoenberger, engineer, stated that few grading problems existed on site and that the required utilities would be

available on site or were immediately adjacent.

Nelson Carpenter described the proposed Quadruplex units as being four family units per building; the form of ownership as being condominium; each unit would have two bedrooms, one bath, one garage; there would be no outside stairwells. The units would be either 800 or 900 square ft. Mr. Carpenter stated that experience with a similar project in East Rochester indicated that half of the buyers would be single persons. The number of children would be relatively low.

Mr. Carpenter offered some statistics relating the nearby Windsor Square Townhouse development and the East Rochester Quadruplex development which indicated that the Quadruplex development produced fewer people per acre and more green area; (see verbatim). The same body of statistics indicated a taxable valuation per child of $43,000.00 from townhouses and $88,000.00 for quadruplexes, (see verbatim).

Mr. Carpenter said a Homeowners Association would assure that the property would be well maintained.

As to price per unit, Mr. Carpenter said a recent increase of 36% in the price of lumber would require the units to be sold for between $18 to $20 thousand.

On the question of the condominium form of ownership, the owner owns the inside of the unit and a common share of all other areas including garages, Mr. Carpenter said.

Mrs. Elizabeth Brennan said she could not accept the statement that the proposed zoning was the best use of the land; that she objected to rezoning this close to an elementary school. Mrs. Brennan inquired as to the transfer of ownership.
Mr. Carpenter replied that the buyer received a warranty deed; that 90% loans were avaiable; also that the units could be rented or sold.

There then ensued a colloquy between Mrs. Brennan and Mr. Carpenter concerning value systems, government subsidies, busing and other topic, (see verbatim).

Mrs. Barbara Rubin stated she would not want a child to cross a four lane highway.

Mr. John Brickmore said he wished to compliment the applicant for meeting a crying need. He thought the proposal looked like a good plan and was the type of housing we need.

Mrs. Brennan said she thought a footbridge could be constructed over the four lane highway

EXHIBIT W

No one else wished to be heard on this matter and a motion was made by John D. Williams and seconded by Richard C. Ade that the matter be tabled.

VOTE OF THE BOARD

George Shaw, "AYE" John D. Williams, "AYE"
Timothy Westbrook, "AYE" Richard C. Ade, "AYE"

Upon the motion, all of the Board Members present having voted "AYE, the matter was tabled.

ITEM # 2. The application of Albert Balistiere, 215 Inwood Drive, Rochester, N.Y. for a resubdivision of two lots, known as lots 3 and 4 or Panorama Ridge Subdivision located on the west side of Panorama Trail opposite Hickory Ridge Rd., account #250-630 and 250-640.

Mr. Albert Balestiere appeared on behalf of the application. Mr. Belestiere stated his application sought to relocate the east lot line of lot 4 (of an existing subdivision) 18.5'. He said he needed the additional width to accommodate a garage and drive he proposed to build. He said that the previous owner had misunderstood where the lot line was. Mr. Balestiere said the additional footage had been conveyed to him and that he would furnish a contract to establish ownership.

EXHIBIT W

No one else wished to be heard on this application and a motion was made by John D. Williams and seconded by Timothy Westbrook that the following resolution be adopted:

RESOLVED, that the application of Albert Balestiere, 215 Inwood Drive, Rochester, N.Y. for a resubdivision of two lots, known as lots 3 and 4 of Panorama Ridge Subdivision located on the west side of Panorama Trail opposite Hickory Ridge Rd., account #250-630 and 250-640 be, and the same hereby is APPROVED, subject to the submitting contract showing consent of present owner.

VOTE OF THE BOARD

George Shaw, "AYE"
Timothy Westbrook, "AYE"
John D. Williams,
Richard C. Ade, "AYE"

Upon the motion, all of the Board Members having voted "AYE, the resolution was declared adopted.

ITEM # 3. The application of Gladstone V. Gayle, 1355 Genesee St., Rochester N.Y., 14611, for the purpose of obtaining an extension to the approval granted by the Planning Board on January 10, 1972 of a one lot subdivision known as Gayle Subdivision located on the south side of Embury Rd. approximately 844' east of Creek St.

** ** ** ** ** ** ** ** ** **

EXHIBIT X OMITTED HERE

CONTENTS HAVING APPEARED

AS PART OF EXHIBIT W

** ** ** ** ** ** ** ** ** ** ** **

EXHIBIT Y

PENFIELD TOWN BOARD

PENFIELD, NEW YORK SEPTEMBER 7, 1971

RESOLUTION FOR REZONING

WHEREAS RICHARD HANDLER AND FRANK GROSSO, Architects, Engineers and Planners, 77 Ridgeland Road, Rochester, New York on behalf of the owners have made application for the rezoning of a parcel of land hereinafter described from "Residential AA" District to "Planned Unit Development" District, and,

WHEREAS the Planning Board has reviewed the proposal for the Planned Unit Development and has rendered a favorable report to the Town Board with the proviso that the applicant reduce the density from that proposed, and,

WHEREAS the Monroe County Planning

EXHIBIT Y

Council has considered the proposal for a Planned Unit Development on the premises hereinafter described and has recommended approval, and,

WHEREAS a public hearing was duly called and held on August 2, 1971, at 8:00 P.M. at the Town Hall, Penfield, New York, to consider the application for rezoning, and,

WHEREAS it appears that the proposed Planned Unit Development for the premises hereinafter described falls within the intent and objectives of the Planned Unit District Ordinance of the Town as amended, and would be in the best interest of the Town,

NOW THEREFORE, BE IT ORDAINED, by the Town Board of the Town of Penfield that the Zoning Ordinance and the official

EXHIBIT Y

Zoning Map of the said Town be and the same hereby is amended as follows:

SECTION 1. The official Zoning Map of the Town of Penfield is amended to transfer from "Residential AA" District to "Planned Unit Development" District the following described premises:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Penfield, County of Monroe and State of New York, being a portion of Lot No. 40 in Township No. 13 in the Fourth Range of Townships of the Phelps and Gorham Purchase comprised of the following conveyances:

Walter J. Holloran to Dolomite Products Company, Inc., dated July 31st, 1968 and recorded in Monroe County Clerks Office in Liber 3920 of Deeds, at Page 343.

Whalen Estates, Inc., to Dolomite Products Company, Inc., dated January 30th 1970 and recorded in Monroe County Clerks Office in Liber 4037 of Deeds, at Page 90.

Victor L. Schroven and Marian V. Schroven to Dolomite Products Company Inc., dated July 18th, 1970 and recorded in Monroe County Clerks Office in Liber 4065 of Deeds, at Page 599.

Rudolph R. Ostrowski and Pearl E. Ostrowski to Dolomite Products Company, Inc.,

EXHIBIT Y

dated August 18th, 1970 and recorded in Monroe County Clerks Office in Liber 4072 of Deeds, at Page 124.

EGH CORP. to Dolomite Products Company, Inc., dated January 15th 1970 and recorded in Monroe County Clerks Office in Liber 4037 of Deeds, at Page 235.

The premises described in the above mentioned conveyance are more particularly described as follows: ALL THAT TRACT OR PARCEL OF LAND, situate in part of Lot 40, Township 13, Range 4, Town of Penfield, County of Monroe and State of New York; Beginning at a point on the easterly boundary of Five Mile Line Road the northwest division of Lot 40 where it is intersected by the north line of premises conveyed to the grantors herein by deed of Walter J. Holloran recorded in Liber 3920 of Deeds, at Page 343; thence (1) easterly along said north line to a point at its intersection with the easterly line of said premises; thence (2) southerly along said line to the northwest corner of premises conveyed to the grantors herein by deed of Rudolph R. Ostrowski and wife recorded in Liber 4072 of Deeds, at Page 124; thence (3) easterly along the north line of the premises conveyed by the aforesaid deed to a point where said line is intersected by a line running due north and south so as to include within the premises conveyed to the grantors by the aforesaid deed a total of exactly five (5) acres of land; thence (4) southerly along said north-south line to a point at its inter-

EXHIBIT Y

section with the northerly line of premises conveyed to the grantors herein by deed of Victor L. Schroven and wife recorded in Liber 4065 of Deeds, at Page 599; thence (5) easterly along the north line of said premises to a point at its intersection with the westerly boundary of Baird Road; thence (6) southerly along said boundary a distance of 1355.07± feet to a point at its intersection with the southerly line of premises conveyed to the grantors herein by deed of EGH CORP. recorded in Liber 4037 of Deeds, at Page 235; thence (7) westerly along said line making an interior angle of 90° 25' 22" with the last mentioned course, a distance of 1524.96± feet to an iron pin at the southwest corner of said premises, said iron pin also being the northeast corner of premises conveyed to the grantor herein by deed of Whalen Estates, Inc., recorded in Liber 4037 of Deeds, at Page 90; thence (8) southerly along the east line of said premises, a distance of 1325.27± feet to a point at its intersection with the northerly boundary of Whalen Road; thence (9) westerly, at right angles to the last mentioned course, along said boundary a distance of 1259.14± feet to a point at its intersection with the westerly line of said premises; thence (10) northerly along said line, making an interior angle of 90° 40' 30" with the last mentioned course, a distance of 1323.14± feet to a point six-tenths (0.6) feet north of a corner post according to a survey and shown on a Map of Property to be conveyed by Grace C. Warner prepared by Erdman and Anthony, Consulting Engineer's, dated August 17, 1965, said point being in the southerly

line of premises conveyed to the grantors herein by deed of Walter J. Holloran as aforesaid; thence (11) westerly along said line to a point at its intersection with the beforementioned easterly boundary of Five Mile Line Road; thence (12) northerly along said boundary to the place of beginning, comprising a total area of 163.7± across; together with all of the right, title and interest of the grantors herein to Whalen Road, Five Mile Line Road and Baird Road.

HEREBY CONVEYING and intending to convey all of the grantors interest in the above described property.

EXCEPTING AND RESERVING from the above described premises, ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Penfield, County of Monroe, New York, known as Township 13, Range 4, Town Lot No. 40, being more particularly described as follows: Beginning at a point in the northerly boundary of Whalen Road which point is 350.17 feet easterly of the southwesterly corner of the aforesaid premises conveyed to Whalen Estates, Inc., by deed recorded in Liber 3670 of Deeds at Page 216 and which point is also approximately 757.6 feet easterly of the center line of Five Mile Line Road; thence (1) northerly along a line making an angle of 90° 00' 00" with Whalen Road, a distance of 204.00 feet to a point; thence (2) westerly along a line making an interior angle of 90° 00' 00" with the preceding course, a distance of 145.18 feet to a point on a curve; thence (3) southwesterly and southerly along a curve having a radius of 570.00 feet, so

situated that a radial line to the aforesaid point makes an angle of 7° 27' 20" in the southeast quadrant with the preceding course, a distance of 74.17 feet to a point of tangency; thence (4) southerly along a line parallel to course No.1, a distance of 90.04 feet to a point of curvature; thence (5) southeasterly along a curve having a radius of 40.00 feet, a distance of 62.83 feet to a point of tangency in the northerly boundary of Whalen Road; thence (6) easterly along the northerly boundary of Whalen Road, a distance of 110.00 feet to the point of beginning comprising 0.6974 acres.

BEING AND HEREBY INTENDING to convey a part of those premises conveyed to the grantor herein by Executor's Deed from Donald Williams, Executor of the Estate of Gra e C. Warner, deceased, dated September 1, 1965 and recorded in the Monroe County Clerk's office on September 2, 1965 in Liber 3670 of Deeds at Page 216.

ALSO EXCEPTING THEREFROM, the premises conveyed by Carl Bernhard to John J. Lorson, Jr., and Peter Scorza by deed recorded in Monroe County Clerk's Office July 14, 1959, in Liber 3220 of Deeds at page 453.

ALSO EXCEPTING the following described premises: Beginning at a point in the center line of Baird Road, which point is situate 537.52 feet along said center line southerly from the northeast corner of the premises first above described; thence (1) running westerly on an included angle of 89° 44' formed with the center line of Baird Road a distance of 224.75 feet to an

iron pin; thence (2) running southerly on an included angle of 90° 16' formed with course No. 1 a distance of 180 feet to a point; thence (3) running easterly on an included angle of 89° 44' formed with course No. 2 a distance of 224.75 feet to the center line of the said Baird Road; thence (4) running northerly along the center line of said road a distance of 180 feet to the point or place of beginning.

-5-

ALSO EXCEPTING the following described premises: Beginning at a point in the center line of Baird Road, which point is situate 976.35 feet southerly along the said line from the northeast corner of the premises conveyed by Joseph R. Vasile and Horace P. Gioia to Russell Welkley by deed recorded in the Monroe County Clerk's Office on January 15, 1969, in Liber 3958 of Deeds at page 118, said point also being the southeast corner of said premises; thence (1) westerly on an included angle of 90° 25' 22" formed with the center line of Baird Road, a distance of 224 feet to a point; thence (2) running northerly on an included angle of 89° 34' 38" formed with Course No. 1 a distance of 158 feet to a point; thence (3) running easterly on an included angle of 90° 25' 22" formed with Course No. 2, a distance of 224 feet to a point in the center line of Baird Road; thence (4) running southerly along the center line of said road a distance of 158 feet to the point or place of beginning.

Intending to convey a portion of the premises conveyed by deed recorded in Monroe

County Clerk's Office on March 26, 1945, in Liber 2237 of Deeds at page 11.

THIS CONVEYANCE IS MADE AND ACCEPTED subject to convenants, easements, and restrictions of record affecting the above described premises, if any.

SECTION 2. This amendment is conditioned upon the following:

a) The modification of the plan for the Planned Unit Development to conform to the density limitations contained in the Planned Unit Development Ordinance, as amended.

b) The execution of an agreement between the developer and the TOWN OF PENFIELD which defines (1) the responsibilities of the developer, the owners and occupants of the developed lands, and the TOWN OF PENFIELD in the improvement, operation and maintenance of common properties and facilities including private streets, drives, service and parking areas

and recreation and open-space areas, and (2) the guarantee by which performance will be insured.

c) Payment of a sanitary sewer entrance fee for each unit in an amount to be determined by the Town Board and which will reflect the development at a greater density of PUD than the average density of a residential development and which will also reflect the need for additional sewerage capacity before the approval of the site plan for development of the planned fourth stage.

d) The filing of a satisfactory letter of credit in an amount sufficient to cover the estimated costs as determined by the Town Engineer of roads, gutters, sidewalks, sewers and sewer systems, drains and drainage systems, lighting systems, water systems, landscaping, and sewer entrance fees.

e) The securing of a site plan approval in accordance with all provisions of the Zoning Ordinance with respect to a Planned Unit Development District and the execution of any agreements between the developer and the TOWN OF PENFIELD required by the Planning Board to insure the construction of the development according to the site plan and in the chronological order of planned construction.

SECTION 3. This amendment shall take effect immediately upon posting and publishing as required by law.

/s/ Earl Rapp
TOWN CLERK OF PENFIELD,
N.Y.

EXHIBIT Z

LEGAL NOTICE

NOTICE OF PUBLIC HEARING, PENFIELD PLANNING BOARD

PLEASE TAKE NOTICE, That a Public Hearing will be held at the Penfield Town Hall on Monday, June 12, 1972, at 8:00 P.M., Eastern Daylight Time by the Penfield Planning Board to consider the following matters:

#1 The application of Oscar DeBree, 1200 Penfield Road, Rochester, N.Y. 14625, for a recommendation to the Town Board for Top Soil Removal Permit, under Sec. 24-3 of the Code of the Town of Penfield. The proposed top soil side of Five Mile Line Road approximately 3200' north of Plank Road, A/C #753-000.

#2 The application of Standco Developers Inc., 40 Wildbriar Road, Rochester, N.Y. under 29-11.23 F of the Code of the Town of Penfield, for final approval of detailed site plans for a proposed Planned Unit Development on the properties owned by Penfield Estates Inc. The proposed Planned Unit Development to be located on 103.49 acres at, or near, 2041 Penfield Road, A/C #63-100.

A Public Hearing will be held at the Penfield Town Hall on Monday, June 12, 1972 at 8:00 P.M. Eastern Daylight Time, at which time all persons in favor or opposed to said applications will be heard.

Earl Rapp
Town Clerk

Penfield Press

BEST COPY AVAILABLE

EXHIBIT AA

PENFIELD PLANNING BOARD
March 13, 1972-Page 2.

VOTE OF THE BOARD

George Shaw, "AYE"
James Hartman, "AYE"
John D. Williams, "AYE"

Upon the motion, all of the Board Members present, having voted "AYE", the resolution was declared adopted.

ITEM # 3. The application of Zurick Development Corp. (Phillip Prinzi), 2255 Lyell Ave., Rochester, N.Y. 14606 for a recommendation from the Planning Board to the Town Board for the rezoning of Sections 3 and 4 of the Independence Ridge Subdivision, Account #922-000 from Residential "AA" to Residential "A".

Samuel Santandria appeared on behalf of the application. He stated that the developers intention was not to change the lot size from the required by Residential "AA" Zoning but to build a smaller house. The lots would be sold to Domus Homes who would build the houses. William Wackerman of Domus Homes identified himself as the builder of the homes in Domus East Subdivision and Baird Rd. Estates. He stated that the building of the same type of home was contemplated as had been built in these subdivisions. Wackerman offered pictures illustrative of the type of home about which he was

EXHIBIT AA

speaking, adding the comment that these were in the $25-$30 thousand dollar range. John Williams inquired as to whether these homes had "built in" expansion areas. Wackerman replied that they had not but some expandable homes might be offered if a market developed for these. Lawrence Dawson inquired as to the location of the proposed development. Wackerman replied, "in the Scribner - Embrey Rd. area." Elizabeth Brennan asked if the homes would have basements; the answer was, "Yes".

No one else wished to be heard on this matter and a motion was made by John D. Williams and seconded by George Shaw that the following resolution be adopted:

RESOLVED, that the application of Zurick Development Corp., (Phillip Prinzi), 2255 Lyell Ave., Rochester, N.Y. 14606 for a recommendation from the Planning Board to the Town Board for the rezoning of Sections 3 and 4 of Independence Ridge Subdivision, Account #922-000 from Residential "AA" to Residential "A" be, and the same hereby is DENIED, not withstanding the Board's interest in the concept but upon the grounds that sewer capacity is unavailable at present.

VOTE OF THE BOARD

George Shaw, "AYE" John D. Williams, "AYE"
James Hartman, "AYE

EXHIBIT AA

Upon the motion, all of the Board Members present having voted "AYE", the resolution was declared adopted.

ITEM # 3. The application of Angelo Castronova, 1766 Empire Blvd., Webster, N.Y., 14680 for an interview with the Board concerning possible resubdivision of account #824-000. Approximately 30 ft. by 92 ft. of this account to be added to account #882-845 for the purpose of an addition to present building at 1766 Empire Blvd.

Angelo Castronova appeared for the application. He stated the proposed addition would comply with all set back requirements; the addition would be 30 ft. by 50 ft.; the total area of the building would be 50 ft. by 100 ft.; there would be no additional water used in the building.

No one appeared in opposition to this application and a motion was made by John D. Williams and seconded by James Hartman that a letter by sent to the applicant advising him that the Board viewed this application with favor.

VOTE OF THE BOARD

George Shaw, "AYE" John D. Williams, "AYE"
James Hartman, "AYE"

Upon the motion, all of the Board Members present having voted "AYE", the Clerk

EXHIBIT AA

was so directed.

ITEM # 4. The application of Angelo Castronova, 1766 Empire Blvd., Webster, N.Y. 14580 for an interview to obtain the Board's view on a possible rezoning of two (2) acres of land on the west side of Creek St., account #824-000 from Commercial to Apartment House and Multiple Dwelling.

Angelo Castronova appeared on behalf of the application. (See verbatim).

Mr. Shaw asked about density; Mr. Castronova said he would cooperate; Elizabeth Brennan said she was glad to see a trend from Commercial to dwelling units; she said that she would like to see single homes. Castronova th townhouses might be possible.

No one appeared in opposition to this application.

A motion was made by John D. Williams and seconded by James Hartman that a letter be forwarded to the applicant stating that the Board does not view this application with favor because of the unavailability of sanitary sewer capacity.

VOTE OF THE BOARD

George Shaw, "AYE" John D. Williams, "AYE"
James Hartman, "AYE"

The Clerk was so directed-

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Title Omitted In Printing	AFFIDAVIT
	Civil Action No. 1972-42

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

CHRISTIAN G. KLING, ALAN J. TADDIKEN and RICHARD C. FARLEY, being duly sworn according to law, depose and say:

1. CHRISTIAN G. KLING, individually alleges: I am a private citizen residing at 40 Sandringham Road, Rochester, New York 14610. I am a part time teacher at the University of Rochester Evening School, Department of Economics, and a part time teacher at St. John Fisher College,Rochester, New York. I hold a Phd. in Urban Planning

from the University of Michigan and teach urban planning, environmental planning and new community planning at the University of Rochester and urban planning and environmental planning at the St. John Fisher College. In my professional and teaching duties, I have occasion to study zoning and its effect on the development of urban plans new communities and environmental planning. In my courses, I particularly consider zoning in the context of the planned unit development concept. My approach to the topic of zoning is that zoning should foster a variety of housing types in order to meet the current needs of housing in urban communities.

2. Alan J. Taddiken, individually alleges: I am a private citizen residing at 70 Highland Pkwy., Rochester, New York.

I am a senior research analist for the Rochester Center for Governmental and Community Research, Inc. I have held this position from 1968. One of my major involvements in my work with the Center has been the development of research projects, reports and consultations concerning housing needs, urban development and land use controls in Rochester, Monroe County and the eight county regional planning area. The specific studies for which I have borne the major responsibility include Housing in Monroe County, New York (1969); Planned Communities for the Rochester Area (1969); Scattered Site Developments (Low and Moderate Income Housing) (1969); A Planned Unit Development Article for a Town Zoning Ordinance (1970); Housing in the Genesee/Finger Lakes

Region: An Interim Report (1971); Senior Citizen Housing: Survey: Preliminary Report (1971); Public Controls and Housing (1971).

3. Richard C. Farley, individually, alleges: I am a private citizen residing at 86 Arvine Heights, Rochester, New York. I am an associate urban designer for the City of Rochester. In this capacity, I have constant contact with questions of city design involving the appropriateness of structures for space and the effective utilization of space. My profession necessarily involves me in considering basic questions of zoning. My educational background is a B.A. degree in architecture. I have had three years of actual experience in this field in architectural firms both in the United States and England; I have had five years' experience in urban

design in city planning offices both in Rochester and Detroit, Michigan.

4. We submit this affidavit in support of the plaintiff's opposition in the above noted lawsuit to the motion to dismiss the complaint. As we understand it, this lawsuit alleges among other points, that the Town of Penfield, by its zoning laws and policies and practices, incidental to the zoning laws effectively excludes the building of rental and/or purchase units of housing in the Town of Penfield which are accessible in price to persons of low and moderate income.

5. In this connection, our examination of the zoning ordinance of the Town of Penfield discloses that it is virtually impossible to develop new housing in the Town of Penfield for low and moderate

income households (housing which sells for under $20,000.00 per unit or rents for under $175.00 per unit) without higher governmental intervention (for example, intervention by an agency such as the New York Urban Development Corporation which has power to overrule local zoning restrictions). The Penfield zoning ordinance[1] and allied regulations (for example, sub-division regulations) significantly reduce and even deny the opportunity to build housing for low and moderate income households without any sufficient reason relating to public health, safety, and welfare.

6. Nor does the Penfield zoning ordinance reflect any efforrs to plan comprehensively for the growth of the town-either considered by itself or as a part of the Rochester Monroe County metro-

politan community. Indeed, Penfield's current zoning controls are an obstacle to any solution to the well-documented housing shortage in the Rochester-Monroe County area.[2]

ANALYSIS OF PENFIELD ZONING ORDINANCE REQUIREMENTS

7. Similar to most zoning ordinances, the Penfield zoning ordinance largely represents a collection of arbitrary regulations intended to control the physical development of their jurisdiction. Most of the provisions of the Penfield zoning ordinance are "arbitrary" insofar as they have not been determined scientifically, but rather merely represent preference and, occasionally, customary local practices. There are few provisions within the ordinance

which can be clearly identified as having a direct bearing on public health, safety and welfare. Furthermore, even when certain provisions can be so identified, such provisions frequently go far beyond the protection of public welfare into the realm of the protection of certain special interest - economic, social class, and racial.

8. The following analysis reviews the requirements of the Penfield zoning ordinance and certain effects of these requirements on various housing types and development approaches, all of which have a potential for housing low and moderate income households - but a potential which is largely denied by the Penfield zoning ordinance.

9. The following housing types and

development approaches are reviewed: single-family detached; multi-family (including townhouses); mobile homes; and planned unit developments. This analysis primarily concerns zoning requirements which have a substantial impact on the cost of a housing unit: e.g., set-back, lot size, lot width, minimum floor area, or habitable space.

SINGLE-FAMILY DETACHED HOUSING

10. Single-family detached housing on small lots (under 10,000 square feet) with reasonable lot widths (under 50 feet), setbacks (under 40 feet), and floor area requirements (not more than 800 square feet) offers potential housing for low and moderate income households. However, the Penfield zoning ordinance has only two zones specifically permitting

single-family detached housing: Section 29-8 (Residential AA District) and Section 29-9 (Residential A District). Basically, Residential AA requires, at a minimum, 20,000 square foot lots, a lot width of 100 feet and a minimum floor area of 1,500 square feet.[3] Basically, Residential A requires, at a minimum, 15,000 square foot lots, a lot width of 100 feet and a minimum floor area of 1,300 square feet (two-story house). In both cases, 53-78 foot setbacks are required from road right-of-way.[4] These are the minimum requirements governing the development of single-family detached houses in all areas of Penfield - whether such areas receive all municipal services (e.g., water, sewers) or not. Thus, areas with public water

and sewers, which could support more moderate lot sizes and dimensions, (e.g., 7,500 square foot lots, a lot width of 40 feet, and a setback of 35 to 40 feet), offering a wider choice of housing prices typical of well designed urban settings, are mandated to be developed as if they received only rural rather than full urban services.

11. Using generally accepted rules of thumb concerning residential development/building costs, the above Penfield zoning requirements force the price of single-family detached housing far out of reach of low and moderate income households. For example, the Residential AA District requirements have the following effect on housing cost:

	Zoning Requirement	Development Cost Factor	Approximate Cost
Lot Width:	100 ft.	$63/foot	$6,300.00
Setback:	65 ft.	$15/foot	975.00
Floor area:	1,500 sq.ft	$16.80/sq. ft.	25,200.00
	(Total Cost of House)		$32,475.00

The Residential A District requirements have the following effect:

	Zoning Requirement	Development Cost Factor	Approximate Cost
Lot Width:	100 ft.	$63/foot	$ 6,300.00
Setback:	65 ft.	$15/foot	975.00
Floor Area:	1,300 sq. ft.	$16.80/sq. ft.	21,840.00
	(Total Cost of House)		$29,115.00

Obviously these residential districts do not allow a wide choice in selecting modestly priced housing. The only allowable single-family detached housing is priced out of the reach of virtually all low and moderate income households.

12. Not only are these residential zones excessively restrictive (and costly in effect on housing development) of themselves, but they govern housing development in approximately 96.5 percent of the town (93.9 percent is Residential AA and 2.6 percent is Residential A). Thus, virtually all opportunity to build housing in Penfield is restricted to building for middle to upper income households. Eighty-one percent of the residentially zoned land is vacant (this represents 98 percent of all the vacant land in the town). Thus, 98 percent of all vacant land in Penfield is unavailable for the construction of low and moderate income housing.

MULTI-FAMILY HOUSING

13. Just as the smaller lot single-family detached house offers housing

opportunities for the low and moderate income household, so too does the multi-family structure. But just as the smaller lot single-family detached house is virtually impossible to build today in Penfield, moderately priced rental units and, for that matter, rental units at any price, are also very difficult or even impossible to construct. Multi-family housing is difficult or impossible to build because the Penfield zoning ordinance has provided for only 126 acres (or 0.5 percent of the town's total acreage) where such development can occur. Furthermore, the ordinance allows a maximum density of 12 units per acre - a density far below that considered necessary in order to allow moderate rentals (i.e., a density of at least 16 to 20 per

acre is considered desirable). Other arbitrary requirements of the ordinance which unnecessarily increase the cost of this housing are the requirements of two parking spaces per apartment unit and an enclosed garage for every unit. Of available vacant land, only 64 acres or 0.3 percent is zoned for multi-family housing.

14. In terms of townhouses, another housing type offering potential opportunity for low and moderate income households, the Penfield zoning ordinance requires a minimum of 1,200 square feet of floor area per unit. Such high minimum floor area requirements in combination with density requirements (of nine units per acre) have a significant impact on unnecessarily increasing housing costs and

diminishing housing opportunities.

MOBILE HOMES

15. Mobile homes offer a significant potential for providing high quality, low cost housing for low, moderate, and even higher income households. Typically, mobile homes occur on either individual lots or in so-called mobile home parks. The Penfield zoning ordinance excludes mobile homes from individual lots (outside of mobile home parks). While the Penfield zoning ordinance provides for mobile home parks, only 118 acres are so zoned, and of those, only 33 are still vacant (or 0.1 percent of the total vacant town land). It should also be noted that the acreage zoned for mobile home parks is restricted to one isolated corner of the town. Furthermore

mobile home parks or subdivisions are not provided for in any other districts, including the planned unit development district. It is apparent that mobile homes are given a very second class treatment in the Penfield zoning ordinance - and deny yet another opportunity for low and moderate income housing.

PLANNED UNIT DEVELOPMENTS (PUD)

16. The PUD approach allows, in theory, excellent opportunity to provide for all income levels within a residential project. Even the Penfield zoning ordinance (Section 29-11.22(A)) states that "This article specifically encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and

siting of dwellings and by the conservation and more efficient use of land in such developments." The objectives of the PUD section of the zoning ordinance also assert the need to meet the needs of residents at all economic lelves (Section 29-11.20(B)). Unfortunately, the zoning ordinance does not follow through on its excellent stated intent and objectives. Rather, in Section 29-11.21 (General Requirements for Planned Unit Development), the zoning ordinance establishes a series of rigid, and frequently excessive, use, dimensional and density requirements which essentially compromise its stated intent and objectives. Instead of encouraging the provision of housing for all economic levels and innovative land use and residential design, the ordinance specifies the percentage of housing types

permitted, specifies minimum floor areas, height, setbacks, and allowable densities, etc. The effect of these requirements is to prohibit, rather than encourage, the development of low and moderate income housing, as well as to discourage and/or prevent improved residential design.

CONCLUSION

17. Overall, the residential control aspects of the Penfield zoning ordinance must be classified as highly restrictive - essentially disallowing the construction of any new housing for low and moderate income individuals. Furthermore, in terms of public health, safety and welfare, there is no apparent justification to support the highly restrictive requirements of the residential (housing) provisions of the Penfield zoning

ordinance. The zoning ordinance is not based on any current comprehensive plan[5] and its provisions (for large lots, etc.) are neither explained nor justified within the ordinance nor within any planning document (known to these reviewers).

The Penfield zoning ordinance is basically an inflexible control mechanism which has the effect of producing economically and racially stratified housing arrangements without apparent regard for the housing needs either of its own citizenry or for the citizenry within the larger metropolitan community.

/s/Christian G. Kling
CHRISTIAN G. KLING

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In
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/s/ Alan J. Taddiken
ALAN J. TADDIKEN

Jurat
Omitted
In
Printing

/s/ Richard C. Farley
RICHARD C. FARLEY

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FOOTNOTES

[1]Zoning, Chapter 29 of the Penfield Town Code.

[2]See the following reports, several of which specifically analyze zoning as an obstacle to building needed housing:

Genesee/Finger Lakes Regional Planning Board, Regional Housing Analyses (January, 1972); Public Controls and Housing (Regional Housing/An Innovative Study), (February, 1972); Senior Citizen Housing Survey: Preliminary Report (October, 1971).

Monroe County Planning Council, Toward a Positive Housing Program: An Initial Assessment of Housing in Monroe County, New York (February, 1970); Summary of Housing Needs (May, 1971)

Rochester Center for Governmental and Community Research, Inc., Housing in Monroe County, New York (April, 1970); Housing in Monroe County, New York: Summary of Research Staff Findings and Recommendations (April, 1970); Town Zoning and the Shortage of Moderate and Low Income Housing in Monroe County, New York (April, 1970).

[3]Minimum floor area for a two-story house (which is generally represented to be the most economical type of single-family detached house to build - and therefore is used in this example).

[4]Since the setback requirement starts at the road right-of-way line, a house would actually be set back an additional 10 to 14 feet from the street pavement.

[5]A master plan was completed for Penfield in May, 1966 by the staff of the Monroe County Planning Council. This plan lacks detailed housing consideration and analysis, and does not reflect either local or metropolitan housing needs.

UNITED STATES DISTRICT COURT
Western District of New York

ROBERT WARTH, Individually and on behalf of all other persons similarly situated, LYNN REICHERT, Individually and on behalf of all other persons similarly situated, VICTOR VINKE, Individually and on behalf of all other persons similarly situated, KATHARINE HARRIS, Individually and on behalf of all other persons similarly situated, ANDELINO ORTIZ, Individually and on behalf of all other persons similarly situated, CLARA BROADNAX, Individually and on behalf of all other persons similarly situated, ANGELEA REYES, Individually and on behalf of all other persons similarly situated, ROSA SINKLER, Individually and on behalf of all other persons similarly situated, METRO-ACT OF ROCHESTER, INC.,

Plaintiffs

vs.

IRA SELDIN, Chairman, JAMES O. HORNE, MALCOLM, M. NULTON, ALBERT WOLF, JOHN BETLEM, as members of the Zoning Board of the Town of Penfield; GEORGE SHAW, Chariman, JAMES HARTMAN, JOHN D. WILLIAMS, RICHARD C. ADE, TIMOTHY WESTBROOK, as members of the Planning Board of the Town of Penfield; IRENE GOSSIN, Supervisor, FRANCIS J. PALLISCHECK, DR. DONALD HARE, LINDSEY EMBREY, WALTER W. PETER, as members of the Town Board of the Town of Penfield, and the TOWN OF PENFIELD, NEW YORK,

Defendants

CIVIL 1972-42

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Attorney for Rochester Home Builders Association, Inc.

This is an action wherein the plaintiffs seek a declaratory judgment adjudging that the Town of Penfield Zoning Ordinance is unconstitutional and in other respects illegal; they seek to enjoin its administration and a judgment awarding damages, both compensatory and exemplary.

By notice of motion with attached affidavit filed April 6, 1972, James M. Hartman as a member of the firm of Harris, Beach & Wilcox, counsel to Andrew V. Siracuse, attorney for defendants, moves to dismiss the complaint on grounds specifically stated and, in the alternative, for an order for a more definite statement and for an order determining that the action has been improperly instituted as a class action. The motion was argued orally and the respective parties have filed written memoranda in support of their positions.

The plaintiffs Warth, Vinkey, Reichert and Harris, property owners and taxpayers of the City of Rochester, have suffered no measurable or particular direct financial injury occasioned by

the activities complained of. These plaintiffs are not taxpayers of the Town of Penfield. They are not attacking a spending measure of the Town of Penfield. The alleged causal connection between Penfield's zoning laws and the resulting tax burden on residents of Rochester is speculative, remote and indirect. They have no standing to sue. Doremus vs. Board of Education, 342 U.S. 429.

The plaintiffs Ortiz, Broadnax, Reyes and Sinkler have alleged no injury suffered as a result of the Penfield Zoning Ordinance or its administration. These plaintiffs have asserted no provision of the Penfield zoning ordinance nor any act of any defendant which violates the constitution or any federal statute. They have set forth no injury in fact. They have shown no connection between their grievances and the Penfield zoning ordinance or its administration. They have no standing to sue. Data Processing Service, Inc. vs. Camp. 397 U.S. 150.

The plaintiff Metro-Act of Rochester has alleged no facts to show its standing to sue. Sierra Club vs. Morton, 405 U.S. 727 (1972).

The plaintiffs have stated no claim or claims upon which relief can be granted under the equal protection clause or the due process clause of the Fourteenth Amendment. Euclid vs. Ambler Realty Co., 272 U.S. 365; Dandridge vs. Williams, 397 U.S. 471; James vs. Valtierra, 402 U.S. 137.

The plaintiffs have stated no claim or claims upon which relief can be granted under the First Amendment or the Ninth Amendment.

The plaintiffs have asserted no valid claim or claims for which relief can be granted under 42 U.S.C. Sections 1981, 1982 or 1983. They are not entitled to declaratory, injunctive, or monetary relief under those sections.

This suit should not be treated as a class action.

The plaintiffs have moved to add as a party plaintiff Housing Council in the Monroe County Area, Inc. Housing Council has no standing to sue. Sierra Club vs. Morton (supra).

Rochester Home Builders Association, Inc. has moved to intervene. This organization has no standing to sue. It has alleged no injury in fact. Even if it did have standing to sue, this court should, in the exercise of discretion, deny intervention because to allow intervention would unduly delay or prejudice the adjudication of the rights of the original parties and would confuse the trial with collateral issues. Accordingly it is hereby

ORDERED that plaintiffs' motion to add as a party plaintiff Housing Council in the Monroe County Area, Inc., is denied. The motion of Rochester Home Builders Association, Inc. to intervene is denied. This action was improperly instituted as a class action. The complaint is dismissed for the reasons herein stated, with costs.

/s/ HAROLD P. BURKE
United States District Judge

December 27, 1972.

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UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Nos. 139, 144—September Term 1973.

(Argued November 27, 1973 Decided April 18, 1974.)

Docket Nos. 73-1748
73-1749

ROBERT WARTH, Individually and on behalf of all other persons similarly situated, LYNN REICHERT, Individually and on behalf of all other persons similarly situated, VICTOR VINKEY, Individually and on behalf of all other persons similarly situated, KATHERINE HARRIS, Individually and on behalf of all other persons similarly situated, ANDELINO ORTIZ, Individually and on behalf of all other persons similarly situated, CLARA BROADNAX, Individually and on behalf of all other persons similarly situated, ANGELEA REYES, Individually and on behalf of all other persons similarly situated, ROSA SINKLER, Individually and on behalf of all other persons similarly situated, METRO-ACT OF ROCHESTER, INC.,

Plaintiffs-Appellants,

v.

IRA SELDIN, Chairman, JAMES O. HORNE, MALCOLM M. NULTON, ALBERT W[illegible], JOHN BETLEM, as members of the Zoning Board of the Town of Penfield; GEORGE SHAW, Chairman, JAMES HARTMAN, JOHN D. WILLIAMS, RICHARD C. ADE, TIMOTHY WESTBROOK, as members of the Planning Board of the Town of Penfield; IRENE GOSSIN, Supervisor, FRANCIS J. PALLISCHECK, DR.

DONALD HARE, LINDSEY EMBREY, WALTER W. PETER, as members of the Town Board of the Town of Penfield, and the TOWN OF PENFIELD, NEW YORK,

Defendants-Appellees.

Before:

MOORE, HAYES and TIMBERS,

Circuit Judges.

Appeal from orders entered in the United States District Court for the Western District of New York, Harold P. Burke, *Judge*, granting motion to dismiss complaint for lack of standing and failure to state a claim upon which relief could be granted and denying motion of Rochester Homebuilders Association, Inc., to intervene as plaintiffs.

Affirmed.

EMMELYN LOGAN-BALDWIN, Rochester, New York (Frank A. Aloi, Robinson, Williams, Robinson & Angeloff, Rochester, New York, on the brief), *for Plaintiffs-Appellants Warth, Reichert, Vinkey, Harris, Ortiz, Broadnax, Reyes, Sinkler, and Metro-Act of Rochester, Inc.,*

MICHAEL NELSON and RICHARD WESLEY, on the brief, *for Plaintiff-Appellant Housing Council in the Monroe County Area, Inc.,*

SANFORD J. LIEBSCHUTZ, Rochester, New York (Liebschutz, Rosenbloom & Samloff, Rochester, New York, on the brief), *for Intervenor-Appellant Rochester Homebuilders Association, Inc.,*

DOUGLAS S. GATES, Rochester, New York (Harris, Beach & Wilcox, Rochester, New York, on the brief), *for Defendants-Appellees,*

THE NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING (Norman C. Amaker and Mollie W. Neal, Washington, D.C., on the brief), filed a brief as amicus curiae urging reversal.

HAYS, *Circuit Judge:*

Appellants brought this suit as a class action against the appelices, the Town of Penfield, New York, and the members of its Town Board, Town Planning Board, and Zoning Board. The complaint alleged that the town's zoning laws, on their face and as applied, violated appellants' rights under the first, ninth, and fourteenth amendments to the Constitution of the United States and 42 U.S.C. §§ 1981, 1982, and 1983. The district court dismissed the complaint for lack of standing and failure to state a claim upon which relief could be granted and denied appellants class action status. The court also denied a motion by the Rochester Homebuilders Association, Inc., to intervene as a plaintiff.

We affirm on the ground that appellants lack standing.

I. FACTS

Accepting appellants' factual allegations as true, as we must, we find the following facts relevant. The Town of Penfield is a suburb of Rochester. Its zoning laws are fairly typical for a suburban community. The town has zoned 90% of all vacant land for single family detached housing. The ordinance also fixes minimum lot sizes, floor areas, lot widths, and setbacks for dwellings. Where the ordinance

does permit multi-family dwellings, it limits density to twelve units per acre, limits the portion of the lot which may be occupied by the dwelling, and requires a minimum number of garage and unenclosed parking facilities for each unit.

The ordinance provides for Planned Unit Developments (PUD), which may contain a mixture of single-family and multi-family units. A substantial part of each PUD must be reserved for single-family dwellings with specified minimum acreages.

Appellants' complaint goes beyond the face of the town's zoning laws and further alleges certain affirmative acts which it claims deprived them of their rights. These acts involve various proposals by builders for multi-family housing in Penfield. One Joseph Audino on several occasions proposed a PUD for a site known as Beacon Hills. The Town Planning Board first denied the proposal, then accepted it with certain modifications which reduced the permissible density. The Town Board first accepted the proposal with the modifications, then rescinded the necessary rezoning. The town apparently claims that sewer facilities in the district are inadequate to serve the proposed development. The builder now plans to pump sewage to another district. Neither the builder nor anyone associated with him is a plaintiff in this action.

Penfield Better Homes, Inc., has proposed a project known as Highland Circle for "low moderate income housing." In September 1969 the Planning Board denied the proposal on a number of grounds. The corporation is not a plaintiff nor associated with any plaintiff in this action.[1]

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1 Penfield Better Homes is a member of appellant Housing Council in the Monroe County Area, Inc. However, this does not suffice to give Housing Council standing. See discussion of Housing Council, infra. Appellants also allege that one director of Penfield Better Homes is a member of appellant Metro-Act of Rochester. This even more clearly fails to confer standing. See discussion of Metro-Act, infra.

A proposal by O'Brien Homes, Inc., to build apartment housing was originally denied. The Planning Board has yet to act on a modification of the same proposal.

Appellants also refer to several other proposals for apartment housing which have met with little success. They claim that only two proposals for PUDs have passed the first stage of the necessary three stages of approval. In no case do appellants allege any involvement in these proposals.

Appellants argue that the Penfield zoning laws, on their face and as applied, violate their rights in a number of ways. First, appellant taxpayers of Rochester claim that because of Penfield's zoning laws the City of Rochester must assume more than its "fair share" of low income, tax abated housing property, thereby shrinking Rochester's tax base and forcing property owners in Rochester to pay higher property taxes.[2] Second, appellants claim that Penfield's zoning practices unconstitutionally bar low and middle income persons, especially members of racial minority groups, from residing in Penfield.[3] Intervenor-appellant Rochester Homebuilders Association, Inc. claims that the town's zoning practices have deprived its members of the opportunity to construction housing for low and middle income persons, thereby harming the association's members financially.

Appellants seek a declaratory judgment that Penfield's zoning practices are illegal, an injunction against enforcing the zoning ordinance, an injunction compelling enactment of an acceptable ordinance, and monetary damages.

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2 These appellants also claim that appellees deprive them of a fair share of their federal tax dollars by refusing to permit federally financed housing in the town.

3 Appellants also claim that appellees' practices violate their right to travel under the first, ninth, and fourteenth amendments and their right of peaceable assembly under the first and fourteenth amendments.

II. Standing

Although the Supreme Court has discussed standing to sue on many occasions, certain aspects of the doctrine continue to present difficulties. Moreover, during the last few years the Court has revolutionized the law of standing. In *Association of Data Processing Service Organizations, Inc.* v. *Camp,* 397 U.S. 150 (1970), and *Barlow* v. *Collins,* 397 U.S. 159 (1970), the Court announced a two-pronged test of standing: the plaintiff must allege an "injury in fact," and must seek to protect an interest "arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." *Data Processing,* supra, at 152-153. However, the Court has not explained what constitutes an "injury in fact." See Dugan, *Standing to Sue: A Commentary on Injury in Fact,* 22 Case W. Res. L. Rev. 256, 258 (1971). Moreover, reliance on precedents is especially hazardous in this area. As the Court remarked in *Data Processing,* "[g]eneralizations about standing to sue are largely worthless as such." 397 U.S. at 151. The Court has laid down some rules in certain areas, such as taxpayer, competitor, and environmental suits. Except for appellants who claim standing as taxpayers, however, these rules are not very helpful here.[4]

Standing is an element of justiciability, "surrounded by the same complexities and vagaries that inhere in justiciability." *Flast* v. *Cohen,* 392 U.S. 83, 98 (1968).

The gist of the question of standing is whether the plaintiff has "alleged such a personal stake in the outcome of

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4 In *Data Processing* the Court acknowledged the limited authority of standing cases from one area in relation to cases in other areas:

> "*Flast* was a *taxpayer's* suit. The present is a *competitor's* suit. And while the two have the same Article III starting point, they do not necessarily track one another." 397 U.S. at 152 (emphasis in original).

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the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). See also *O'Shea* v. *Littleton*, —— U.S. ——, 94 S. Ct. 669, 675 (1974); *Flast* v. *Cohen*, supra, at 99.

A. *Appellant Taxpayers of Rochester*

Appellants Vinkey, Reichert, Warth, and Harris own land within the city of Rochester. They claim that the Penfield zoning laws exclude low and moderate income persons, thereby requiring Rochester to permit more than its "fair share" of tax-abated housing projects. This shrinks the tax base of Rochester, which then must impose higher tax rates on appellants and others similarly situated in order to meet its fiscal needs.

As a general rule the interests of a federal taxpayer in federal expenditures are too "minute and indeterminable . . . fluctuating and uncertain" to provide a basis for standing. *Frothingham* v. *Mellon*, 262 U.S. 447, 487 (1923). The rule applies equally to state taxpayer suits in federal courts. *Doremus* v. *Board of Education*, 342 U.S. 429 (1952). In *Flast* v. *Cohen*, 392 U.S. 83 (1968), the Court created an exception to the rule: a federal taxpayer may contest measures alleged to violate "specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power." Id. at 103.

Appellants do not allege a violation of a "specific constitutional limitation" on taxing and spending. Indeed, they do not even allege that Rochester's taxes or expenditures are unconstitutional. They allege only that certain acts of appellees which do not involve taxing or spending have operated to raise their taxes.

In *Flast* the Court stated that its decision was "consistent with the limitation upon state-taxpayer standing

in federal courts in *Doremus* . . . ." 392 U.S. at 102. Certainly if taxpayer standing was not justified in *Doremus* because plaintiff's interest was too remote, standing cannot be found here, where there is such an attenuated line of causation between the allegedly illegal acts (Penfield's zoning laws) and the injury of which appellants complain (higher property taxes). A great variety of actions taken by a state or a municipality might arguably affect the rate of taxation in other states or towns. This hardly gives taxpayers in the affected states or towns standing to contest all such actions.[5]

B. *Individual Appellants Claiming Standing on Other Grounds*

Appellants Broadnax, Sinkler, and Reyes are blacks and Puerto Ricans of low income who reside in Rochester. Each has sought but failed to obtain housing in Penfield. They allege that Penfield's zoning laws effectively bar low income housing within the town and therefore exclude them and persons similarly situated from living in Penfield. Appellant Ortiz lives in Wayland, New York, and works in Penfield. He makes the same allegations as appellants Broadnax, Sinkler and Reyes, and in addition claims as injury the commuting expenses he incurs because he cannot live in Penfield.

None of the appellants claims that anyone has refused to sell or lease housing or property to him. Indeed, appellants concede that they cannot afford any existing housing within the town. They do not claim to have any interest in land within the town or any connection with any plan to construct housing for them within the town.

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5 Appellants also base a claim of standing on their status as federal taxpayers. See note 2, supra. This claim does not attack a spending measure of Congress and is not based on a specific constitutional limitation on spending. The claim therefore fails.

The Supreme Court has not established guidelines as to what constitutes an injury in fact for purposes of standing in this area. Nor have the lower federal courts, in this circuit or otherwise, considered the specific issue raised here. Appellants cite several federal cases in which a party was held to have standing to challenge zoning on civil rights grounds. In most of these cases the party attacking zoning had an interest in land.[6] A few cases in other circuits have taken a short step beyond this. In *Park View Heights Corp.* v. *City of Black Jack*, 467 F.2d 1208 (8th Cir. 1972), and *Dailey* v. *City of Lawton*, 425 F.2d 1037 (10th Cir. 1970), developers contested zoning which

6 In *Kennedy Park Homes Ass'n, Inc.* v. *City of Lackawanna*, 436 F.2d 108 (2d Cir. 1970), cert. denied, 401 U.S. 1010 (1971), the Diocese of Buffalo had committed itself to sell thirty acres of land it owned in Lackawanna to Kennedy Park Homes for low-income housing. Both the Diocese and the Association clearly had an interest in land.

In *Township of River Vale* v. *Town of Orangetown*, 403 F.2d 684 (2d Cir. 1968), this court held that plaintiff town had standing to sue defendant town which had rezoned property adjoining plaintiff on the allegation that the zoning was arbitrary and capricious and would injure plaintiff by reducing its revenues. We held that plaintiff need not be a resident of the town whose zoning practices were challenged. Id. at 686. We did not abandon the requirement, which plaintiff clearly met, that a party have a personal stake in the outcome. The holding reflects the obvious point that landowners may be affected by the zoning of adjoining properties, and that this interest suffices to confer standing. Cf. 3 K.C. Davis, Administrative Law Treatise § 22.16 at 283 (1958).

Neither *Boraas* v. *Village of Belle Terre*, 476 F.2d 806 (2d Cir.), prob. juris. noted, 94 S. Ct. 234 (1973), nor *Norwalk CORE* v. *Norwalk Redevelopment Agency*, 395 F.2d 920 (2d Cir. 1968), involved the kind of standing issue presented here. In *Boraas* we granted standing to unrelated persons living together in an apartment to challenge an ordinance limiting the right of unrelated persons to live in the same dwelling. In *Norwalk CORE* persons displaced by urban renewal had standing to challenge the city's procedures in relocating them. In each case plaintiff's personal stake was clear.

In most of the civil rights challenges to zoning in other circuits plaintiffs also had some interest in land sufficient to warrant standing. See *Southern Alameda Spanish Speaking Org.* v. *City of Union City*, 424 F.2d 291 (9th Cir. 1970); *Sisters of Providence* v. *City of Evanston*, 335 F. Supp. 396 (N.D. Ill. 1971); *Crow* v. *Brown*, 332 F. Supp. 382 (N.D. Ga. 1971), aff'd, 457 F.2d 788 (1972) (per curiam).

prevented them from building low income housing projects on parcels of land which they owned. In both cases the court permitted potential residents of the proposed projects to join as plaintiffs. Without deciding whether we approve these holdings, we note that the standing of potential residents in these cases presents an issue very different from the one presented here. The focusing of the controversy on a particular project asures "concrete adverseness." The concrete possibility of obtaining new and better housing gives potential residents a personal stake in the outcome. The relief requested is not hypothetical.

The requirement of standing helps to insure that "the questions will be framed with the necessary specificity . . . to assure that the constitutional challenge will be made in a form traditionally thought to be capable of judicial resolution." *Flast* v. *Cohen*, 392 U.S. 83, 106 (1968). See also *Barlow* v. *Collins*, 397 U.S. 159, 167, 171 (1970) (Brennan, *J.*, concurring). In the instant case appellants cannot establish this specificity and the necessary "concrete adverseness."

The doctrine of standing also turns on whether the party in question has a "personal stake in the outcome of the controversy." *O'Shea* v. *Littleton*, —— U.S. ——, ——, 96 S. Ct. 669, 675 (1974); *Sierra Club* v. *Morton*, 405 U.S. 727, 732 (1972); *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). Appellants lack such a personal stake. The essence of their complaint is that the zoning practices of the appellees are unfair. However true that charge may be, absent a showing that appellants themselves have suffered from these practices they lack standing to challenge them. Their dispute with appellees reflects primarily a political disgruntlement. They indicate no benefit which a judgment favorable to them would produce. They allege neither

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capability nor intent to construct housing for themselves on any land which the court might order rezoned as an element of relief.

Indeed, appellants' prayer for relief demonstrates their lack of personal stake in the outcome and their lack of standing. They request equitable relief in the form of a declaration that the Penfield zoning ordinance is unconstitutional, an injunction against enforcing it, and an injunction requiring enactment of a new ordinance. Granting this relief would not clear roadblocks to currently planned housing which appellants hope to occupy. It would not benefit appellants in any way in the foreseeable future. The prayer for relief also illustrates the lack of specificity. Appellants request neither zoning of any particular parcels nor approval of any specific projects.

In *O'Shea* v. *Littleton*, —— U.S. ——, 94 S. Ct. 669 (1974), plaintiffs brought suit alleging that defendants, various judicial and law enforcement officials of Alexander County, Illinois, were administering the county's criminal justice system in a discriminatory manner so as to deprive all black and some white citizens of a variety of constitutional rights. The Supreme Court held that plaintiffs had failed to state an Article III case or controversy. 94 S. Ct. at 675. The Court's opinion noted that the complaint "allege[d] injury in only the most general terms" and that "[n]one of the named plaintiffs is identified as having himself suffered any injury in the manner specified." Id. at 676. The threat of injury to the named plaintiffs was too "abstract," "conjectural," and "hypothetical" to give them a "personal stake in the outcome." Id. at 675.

Here we have a similar case. Appellants alleged that appellees' zoning practices deprive low income minority groups of equal protection. However, none of the named plaintiffs has suffered from any of the specific, overt acts

alleged. Thus appellants' personal connection with these practices is too abstract, conjectural, and hypothetical to establish an Article III case or controversy.

C. *Metro-Act of Rochester, Inc.*

Appellant Metro-Act of Rochester, Inc., is a non-profit corporation whose main purpose is "to alert ordinary citizens to problems of social concern." Low income housing is one area to which the organization has directed its attention. Appellant claims standing on a number of grounds, none of which is adequate.

First, appellant claims standing because of its "special interest" in housing matters. The Supreme Court's decision in *Sierra Club* v. *Morton*, 405 U.S. 727, 735-40 (1972), rejected this as a basis for standing.

Second, Metro-Act claims standing as a taxpayer of the city of Rochester. This approach fails for the same reasons stated above with respect to individual taxpayer appellants.

Third, appellant claims standing as representative of its low income members who seek housing in Penfield. Since we have decided that these individuals lack standing, the organization cannot derive standing from them.

Fourth, Metro-Act claims standing on the ground that one director of Penfield Better Homes is one of its members. We have decided that membership of Penfield Better Homes in Housing Council does not suffice to confer standing. (See discussion, infra.) It follows that membership of a director in Metro-Act certainly cannot confer standing.

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Finally, relying on *Trafficante* v. *Metropolitan Life Insurance Co.*, 409 U.S. 205 (1972), Metro-Act claims standing as representative of its members who live in Penfield.[7] In *Trafficante* the plaintiffs, tenants of an apartment complex, challenged the allegedly discriminatory rental practices of their landlord. They claimed as injury the loss of social, business, and professional benefits of living in an integrated community and embarrassment of being stigmatized as living in a "white ghetto." They based their claim of standing on section 810(a) of the Civil Rights Act of 1968, 42 U.S.C. § 3610(a), which gives standing to "[a]ny person who claims to have been injured by a discriminatory housing practice . . . ." The Supreme Court held that plaintiffs had standing.

Trafficante is distinguishable from the present case. We have emphasized that generalizations about standing are largely useless. This is especially true of a case which focused on the peculiarities of one piece of legislation. The Court in *Trafficante* looked to the legislative history and administrative interpretation of section 810(a). 409 U.S. at 210. The Court also considered the practical difficulties of enforcing the Act and concluded that Congress must have intended persons in plaintiffs' position to be able to sue as private attorneys-general. Metro-Act has presented us with no similar factors in this case.

The concurring opinion of Justice White, joined by Justices Blackmun and Powell, further suggests that the holding of *Trafficante* should apply only to cases under the Civil Rights Act of 1968. Justice White expressed doubt that, in the absence of section 810(a), the suit would present an Article III case or controversy. 409 U.S. at 212. The six remaining justices explicitly declined to consider

7 Appellants' complaint did not include residents of the Town of Penfield as a class which they purported to represent. Metro-Act has, however, made this claim on appeal.

whether plaintiff might also have standing under 42 U.S.C. § 1982. 409 U.S. at 209 n.8. The reasoning of the majority opinion and the explicit statement of the three concurring justices strongly indicate that a majority of the Court would not find standing for Metro-Act on this basis.

D. *Housing Council in the Monroe County Area, Inc.*

Housing Council in the Monroe County Area, Inc., is a non-profit corporation whose purpose is to "combat community deterioration through the elimination of racial and economic discrimination in housing." Its membership includes public and private agencies and organizations seeking to improve the housing of persons of low and moderate income. Plaintiffs below moved to add Housing Council as a party plaintiff. The district court held that Housing Council lacked standing. We agree.

Housing Council alleges no injury in fact to itself. To the extent that it bases standing on representation of various groups of residents in the metropolitan Rochester area, its claim fails for the same reasons given in our discussion of other appellants.

Housing Council also claims standing because Penfield Better Homes Corp., one of its members, has been denied approval of a specific housing project proposal. We note first that if this allegation conferred standing on appellant it would confer only that standing which its member would have had. Housing Council has not indicated that it limits its suit to the dispute over the proposal of Penfield Better Homes. Rather it joins in the more general and abstract claims of other appellants.

We think that Housing Council lacks standing to vindicate even the more limited claims which Penfield Better Homes might have against appellees. It is highly doubtful that an organization has standing to represent its mem-

bers in most cases under the Civil Rights Act. See *Aguayo* v. *Richardson*, 473 F.2d 1090, 1098-1101 (2d Cir. 1973), cert. denied, 94 S. Ct. 900 (1974). Certainly the special circumstances favoring organizational standing in cases like *NAACP* v. *Alabama ex rel. Patterson*, 357 U.S. 449, 458-60 (1958), and *NAACP* v. *Button*, 371 U.S. 415, 428-29 (1963), are absent here. Alleged specific harm is limited to a single member. There is no reason why Penfield Better Homes cannot assert its own rights as well as or better than Housing Council.

Housing Council therefore lacks standing.

E. *Rochester Homebuilders Association, Inc.*

Rochester Homebuilders Association, Inc., is a nonprofit trade association of persons and companies engaged in various phases of the residential construction industry in the metropolitan Rochester area. In the court below the association moved, pursuant to Fed. R. Civ. P. 24(b), to intervene as plaintiffs in this action. The district court denied the motion on the grounds that the association lacked standing and that its intervention would create undue delay or prejudice. We agree that the association lacked standing and do not reach the Rule 24(b) issue.

As we noted above, an organization may have standing to assert the rights of its members where there are special circumstances. The rule applies to trade associations as well as to other organizations. *National Motor Freight Traffic Ass'n* v. *United States*, 372 U.S. 246 (1963) (per curiam). We find no such special circumstances here.

Moreover, as we noted above with respect to appellant Housing Council, an organization seeking to assert rights of its members has only that standing which its members would have had. Rochester Homebuilders has not tied its claim of standing to specific acts of appellees which have

affected its members. Instead it makes the same claims as other appellants. The members of the association would not have standing to raise these claims. The association cannot derive such standing from them.

Affirmed.